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REPORT

OF

MR. T. G. ROTHWELL, COMMISSIONER.

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REPORT

With copies of Documents therein referred to, of Mr. T. G. Rothwell, Commissioner,
on Claims of Settlers on Lands within the Esquimalt and Nanaimo Railway
Company Belt, British Columbia.

DEPARTMENT OF THE INTERIOR,

OTTAWA, 21st December, 1897.

SIR,—In accordance with a direction given in and by the commission which issued to me upon the 10th day of August last, of which a copy is hereunto attached, I have the honor to report to you the result of my investigation into the claims, referred to in that commission, the evidence taken before me concerning such claims, and the opinion which I have arrived at thereon, and which under the terms of my commission I am to express thereon.

The claims in question consist of the claims of certain settlers upon the tract of lands which was conveyed to the Government of the Dominion of Canada, by the Province of British Columbia, under the provisions of chapter 14 of 47 Victoria, of the Statutes of that Province, entitled: "An Act relating to the Island Railway, the Graving Dock and Railway Lands of the Province," and which, in accordance with the purpose and intention of certain provisions of that Act, in that behalf contained, and under the authority of section 3 of chapter 6 of 47 Victoria, of the Acts of the Dominion of Canada, entitled: "An Act respecting the Vancouver Island Railway, the Esquimalt Graving Dock and certain railway lands of the Province of British Columbia, granted to the Dominion," was granted to the Esquimalt and Nanaimo Railway Company (hereinafter referred to as the railway company) by letters-patent bearing date the 21st April, 1887, of which a copy is attached hereto.

The settlers mentioned are those who are referred to as *bonâ-fide* squatters, in section 23 of the Provincial Act before referred to, and which is hereinafter referred to as chapter 14, and in sub-section 2 of section 7, of the Dominion Act before referred to, and which is hereinafter referred to as chapter 6. It was provided by this section and sub-section, that each *bonâ-fide* squatter, who had continuously occupied and improved any of the lands within the tract of lands so granted to the railway company, for a period of one year, prior to the 1st January, 1883, should be entitled to a grant of the freehold of the surface rights of the land settled or squatted upon by him to the extent of 160 acres, at the rate of \$1 per acre.

The settlers affected by these provisions have always claimed, and now claim, however, that they are entitled to a grant in fee simple not only of the surface rights, but also of the under-rights including the coal and all other minerals, except gold and silver, or, in other words, to the same title, to their respective lands, which a settler, who had applied for and obtained a pre-emption record under the provisions of the Act passed in the year 1875 by the Province, being chapter 5 of 38 Victoria, or under the provisions of any of the Acts which were repealed by the first section of that Act, and who had complied with the conditions of his pre-emption entry, secured from the Province by the issue of a Crown grant in the form of which a copy is hereto attached.

As none of the settlers, to protect whose rights section 23, of chapter 14 and sub-section 2, of section 7, of chapter 6 have always been understood to have been passed, obtained entries for the lands they respectively settled upon and claimed, until they obtained entries by the acceptance of pre-emption records subject to the provisions of section 23, it is clear that they have no claim to the under-rights which they could

establish by any legal proceedings. In other words, the settler who accepted a pre-emption record, subject to the provisions of section 23, for the land which he claimed, thereby agreed, although unintentionally and in ignorance of the meaning of those provisions, to pay \$1 per acre for the surface rights of the land he claimed and to accept a grant thereof in full settlement of his claim.

This is the legal position in which each of these settlers or persons claiming title from such settlers, respectively, now stands with regard to his land. This is the standpoint from which the claims have been invariably considered by all persons who have had to deal with them officially in the past. These settlers had "no status" with regard to the lands they claimed, and it may be that it is the only standpoint from which I should consider them. But, as Mr. Patrick Dolan, one of the claimants, stated in his evidence, "the law does not always do right by settlers," and as I think I can show not only from the evidence, but from the Acts which have been passed, and the notices which have been issued by the Province with regard to this matter, that these settlers did not receive the protection, when such Acts and notices were framed, which they were justly entitled to receive, I propose to go into it and set out in detail all material particulars concerning it, from the time of the issue of the notice of the 1st July, 1873, referred to in the evidence of Mr. W. S. Gore, Deputy Commissioner of Lands and Works for the Province, up to and inclusive of the passing of the Provincial chapter 14, and Dominion chapter 6 of 47 Victoria, before referred to. When I have completed this task I feel satisfied that I will have established the conclusion I have arrived at, that although these settlers, speaking generally, have now no legal right to the coal and other minerals under their lands, they or those claiming from them have a just claim for redress at the hands of the Province in which they live and a claim which that Province cannot honourably refuse to recognize and settle. Up to the present date the Province appears to have been perfectly satisfied that all blame for this matter should be laid upon the Dominion, notwithstanding that the sole interest of the Dominion was that of trustee for the Province; but even if the Dominion was responsible for the injustice which I consider has been done to these settlers, it is the duty of the Province to redress that injustice.

The notice of the 1st July, 1873, I have referred to, is the notice which was published in the British Columbia Gazette of the 5th of that month and the first one which, according to the evidence of Mr. Gore, was issued by any Government of the Province to reserve from settlement a tract of land to be conveyed to the Dominion Government in trust, to aid in the building of any railway upon Vancouver Island. It was passed upon the authority of the Order-in-Council therein mentioned, for the purpose above stated.

It is doubtful, I think, that this notice and the reserve therein referred to were in force when many of the settlers applied for entry for the lands they had squatted upon, but as none of them was granted a pre-emption record it is unnecessary to consider this question. Apparently, however, such notice and reserve were assumed to be in force by the officials of the Province who had to deal with the lands in question, because this notice was the only notice of reservation that was issued by the Provincial Government until the notice which was published in the British Columbia Gazette of the 21st April, 1882, reserving the tract of land therein described for the purpose of enabling the Government of that Province to carry out the provisions of the "Vancouver Land and Railway Company Act, 1882," chapter 15 of 45 Victoria, commonly known and referred to in the evidence as the "Clement's Act," from the name of one of the promoters of that company, Mr. Lewis M. Clement. It was because of this notice of the 1st July, 1873, that the applications of all the settlers who applied prior to the passing of the Clement's Act were refused.

That the Provincial Government of 1883 also considered this notice of 1873 to be in force is evidenced by the fact that in the notice of the 12th June, 1883, which was published in the British Columbia Gazette of the following day, reserving "in furtherance of the construction of the Island Railway," the tract of land therein reserved, it was provided that this notice of the 1st July, 1873, was thereby rescinded. A copy of each of these three notices, which according to the evidence of Mr. Gore, are the only notices of the kind which were issued by the Province, is attached hereto, and I wish

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particularly to point out that no mention is made in either of them, in any of the Land Acts passed by the Province or in any Act passed by the Province incorporating or otherwise concerning any Railway Company, until the Clement's Act was passed, of the reservation of the minerals or under-rights. As the section of the Clement's Act by which the minerals were to be granted to the company incorporated by that Act, and not to the settler, will be quoted further on, it is unnecessary to quote it here, but by such section the settler was given, for the first time, intimation of any kind that even though he might obtain title to lands upon which he had squatted, he would not be granted the under-rights which before that time passed to each grantee by his Crown grant. Indeed in each of the Land Acts which were in force from 1870 the form of Crown grant to be issued thereunder is provided to be the form in the schedule thereto, in which form the only minerals mentioned as being reserved are gold and silver.

It may be well to state here the several Land Acts that were in force in the Provinces from 1870 to 1884. Until the 22nd April, 1875, when the "Land Act, 1875," was assented to, the law of the Province under which settlers had to obtain title to their lands was the "Land Ordinance, of 1870," as amended in 1872 and 1873, as the Act of 1874 was not brought into force. Its provisions, however, are the same as the provisions of the "Land Act, 1875." In 1876, an Act, chapter 25, of 39 Victoria, was passed to amend one section of the "Land Act, 1875," but this amending Act was repealed in the following year by chapter 26, 40 Victoria. The "Land Act, 1875," was, however, amended in 1878, by chapter 25, of 42 Victoria; in 1879, by chapter 21 of 42 Victoria; in 1882, by chapter 6, of 45 Victoria; and in 1883, by chapter 17, of 46 Victoria. In 1884, by chapter 16, 47 Victoria, the laws affecting Crown Lands in British Columbia were again amended and consolidated, and the "Land Act, 1875," and its amending acts were repealed.

In none of these Acts, until chapter 6, 45 Victoria was passed, were any minerals reserved but gold and silver, but by section 6 of that Act coal was also reserved. It was not until the passing of the Clement's Act, chapter 15, 45 Victoria, however, as I have before pointed out, that any provision was passed to reserve minerals from the settler and to grant them to a railway company.

In 1875, by section 1, of chapter 13, 38 Victoria, a grant of lands not to exceed 20 miles on each side of the railway line was made to the Dominion Government to aid in constructing a railway between Nanaimo and Esquimalt Harbor, provision for building a railway between that harbor and Victoria having been made in 1873, by chapter 23, 36 Victoria, no land grant being, however, provided for this enterprise. By one of the sections of this latter Act provision was made that none of its provisions were to take effect until the Pacific terminus of the Canadian Pacific Railway had been officially announced, and not until the 31st December, 1874, unless that company had previously selected and acquired all the lands in the district through which the Victoria and Esquimalt Railway was to run. The charter of the then proposed Canadian Pacific Railway Company having been revoked, the time in which the construction of the Victoria and Esquimalt Railway was to be commenced and completed was fixed by section 2, of chapter 29, 39 Victoria (1876), by section 3 of which Act it was, however, provided that nothing in that Act should effect or interfere with the Esquimalt and Nanaimo Railway Company. In 1882, however, when the Clement's Act was passed, chapter 16, 45 Victoria was passed to repeal chapter 13, 38 Victoria.

I have deemed it advisable to refer to all these Acts in this report to facilitate reference in case it may be thought necessary to examine them, because of my statement that it was not until the passing of the Clement's Act that provision was made for the granting of surface rights only to the settler of lands he had squatted upon, or because of any other reason.

The tract of lands which was reserved to aid in the construction of the railway to be built by the company incorporated by the Clement's Act, is the tract of land reserved by the notice of the 21st April, 1882, and all of which, except the portion described in section 4 thereof, was granted to the Dominion Government by chapter 14.

I may here quote section 19 of the Clement's Act:—

"19. All farming squatters who have made permanent improvements, and who have permanently resided for not less than two years previous to the passing of this Act

"upon any of the lands to be granted in pursuance of this act, shall be entitled to purchase from the company the lands upon which they have so resided, at the price of one dollar per acre; but all coal and other mines and minerals, in and under such lands, shall be reserved and granted to the company."

Until these provisions became known to the settlers or squatters whose claims are the subject of this report, it is established, I consider, by the evidence that although most of them knew of the reservation of the tract of land, all of them expected and believed that they would ultimately receive Crown grants for the land they respectively claimed, which would make them owners in fee thereof, without any reservation in the Crown grant as regards minerals, excepting only gold and silver.

When the provisions of the section (19) I have quoted from the Clement's Act became known, the settlers united in an effort to secure what they evidently believed they were justly entitled to, and having brought their troubles and fears to the attention of the then Governor General of Canada, the Marquis of Lorne, when he visited Nanaimo, during the tour he was then making through the Province, by his advice prepared and forwarded to Ottawa the petition which is repeatedly referred to in the evidence, and of which a copy is hereto attached. It is as follows:—

"To His Excellency the Governor General of the Dominion of Canada in Council assembled:

"The undersigned settlers and squatters on sections of lands within the railway reserve belt on Vancouver Island, humbly beg that Your Excellency in Council will take into your early consideration the previous prayers of your petitioners, wherein they have requested that an official intimation would be given them that the settlers or squatters would be secured in their promised rights and that they would be able to obtain the land on the same terms and conditions as similar lands outside the railway reserve have in previous years been conveyed to pre-emptors.

"And your petitioners, as in duty bound, will ever pray, etc., etc., etc."

As it appears by the records of the Department of the Interior the petition having been referred to the Privy Council was referred to the then Minister of the Interior for report. The only material action which seems to have been taken with regard to it was to refer it, on the 2nd February, 1884, for report to the Honourable Joseph Trutch, then resident agent for Canada in British Columbia. Mr. (now Sir Joseph) Trutch simply acknowledged the receipt of the reference and stated that the claims set forth in the petition had been fully dealt with by the Act, chapter 14, before referred to. The manner in which the claims had been "fully dealt with" will be made clear to any one who will first read the petition of the settlers above quoted, and then read section 23 of chapter 14, which limited the settlers to a grant of the surface rights only, on the lands they claimed. It is very difficult to pass, without severe criticism the studied cold-blooded indifference, to the claims set forth in the petition, which was displayed by the then resident agent of the Dominion in the "report," I have referred to. That it was his duty to have secured to these settlers, what I consider they had a right to expect, I do not think. That duty was then, as I consider it is to-day, upon the Government of the Province, in which these settlers lived, and in which were the lands upon which these settlers had been permitted to make their homes. But it was the duty of the resident agent, when a reference of the petition was made to him, to have reported either for or against the claims and to have stated clearly the grounds upon which his opinion was based. However, his report in this matter exactly corresponds with the action which appears to have been taken by all persons who had to deal with it, and I cannot pass unnoticed here a point that struck me when reading the 15th clause of the "Agreement with British Columbia" which is contained in the schedule to chapter 6. That clause relates to the then proposed amendment by the Legislature of the Province of chapter 14, of 46 Victoria, and in it particular reference is made to the proposed amendment of sections, 23, 24, 25 and 26 of that Act. By comparing the corresponding sections, 23, 24, 25 and 26, of chapter 14, 47 Victoria, by which chapter 14, 46 was repealed, with sections 23, 24, 25 and 26 of that Act, it will be seen that no alteration whatever is made in two of the sections, and that the only material amendment is to make provision for the payment by the settler of \$1 per acre for his land. This very necessary provision, in the interest of the

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Railway Company, had been overlooked when section 23 of chapter 14, 46 Victoria, was framed.

Another matter which goes to establish my opinion that the claims of these settlers were neither carefully nor fairly considered is shown by the time that was given to them to decide whether they would accept the settlement of their claims secured to them by section 23, of chapter 14, and sub-section 2, of section 7, of chapter 6, or not. This time was fixed by the notice of the 7th of May, 1884, of which a copy is hereunto attached, and which was published in the *British Columbia Gazette* of the 8th and 15th of that month, and in one or two local newspapers. Settlers who had been agitating for upwards of two years for a title to both the surface rights and the under-rights of the lands claimed, were thereby given, at the most, twenty-three days, and in all probability, in view of poor postal and travelling facilities of that day, not one-quarter of that time in which to decide whether they would accept what had been provided for them or run the risk of the lands being given to others, as they were warned by the notice that the lands in question would be thrown open to other settlers after the 1st June next (1884). First the claims of these poor settlers "were fully dealt with" by taking from them what they had all along been claiming they were entitled to, and then they were given short and peremptory notice to come in and accept what had been left for them, and save it from being given to others. Truly Mr. Patrick Dolan had much ground for believing that: "the law does not always do right by settlers."

It may be argued, however, that as the reservation for railway purposes of the tract of land referred to in the notice of July, 1873, was known to the most if not all, of these people when they went into possession of the lands in question, and before they commenced to improve them, and that as none of them was granted a pre-emption record for the lands so taken up, until pre-emption records were granted subject to the provisions of section 23 of chapter 14, and of sub-section 2 of section 7, of chapter 6, they were reasonably dealt with under the provisions, and were solely responsible themselves for the results of their own illegal conduct in settling upon land which they knew was not open to settlement.

In reply to such a contention I desire to point out that the evidence of the settlers and others who appeared before me does not support it. Although they were told that their applications for pre-emption record could not be granted they were not warned to keep off the land, nor were they told that if they were in time granted records it would be for the surface rights only. Indeed, I think the weight of evidence supports the view that they were induced to remain upon the land they had squatted upon and to believe that they would be ultimately granted the ordinary pre-emption record for such lands. Those of the original squatters who appeared before me were intelligent men, and the improvements which they made upon their lands are sufficient to establish their industry. They were a good class of settlers, men whom the officials they made application to would naturally consider should be induced to remain in the Province.

Mr. Thomas Cassidy, who first took possession of his land in 1878, made an application in writing with another settler, Mr. Charles Stewart. Mr. Fawcett, the Agent to whom the applications were made refused to grant entries, but kept the applications. Mr. Cassidy was one of the four who made application for 1,000 acres of mineral land. This application was refused, the Agent stating that if he ever got land he would only get 160 acres. The meaning is clearly 160 acres by the usual Crown grant, not simply the surface rights thereto, the grant of surface rights with the under-rights reserved being then unknown in the Province. The Agent did not warn Mr. Cassidy off the land, but on the contrary allowed him to go to his home with the belief that he would ultimately obtain the usual title for other land he had also applied for, to the extent of 160 acres.

Mr. George Vipond first took possession of his land in 1875. He made a written application for entry to Mr. Fawcett who told him the land was not open to entry, but when it was open he would get it subject to the provisions of the Land Act in force when he made application. Later on in the evidence Mr. Vipond stated that Mr. Fawcett told him that the settlers' rights would be respected.

Mr. Archibald Hamilton first located his land in 1878. He made a verbal application to Mr. E. G. Prior, who is now one of the representatives in the House of Commons,

for Victoria, and who in 1878 was Assistant Commissioner of Lands and Works, at Nanaimo, that being the correct title of Mr. Fawcett, of Mr. Prior who succeeded him, and of Mr. Bray, the present Agent, who succeed Mr. Prior. According to Mr. Hamilton's evidence Mr. Prior told him, when he verbally applied to him for entry, that he could not give him entry but would note that he had applied.

Mr. James Paterson who was sent by his brother settlers in 1891, to Ottawa to urge these claims upon the Government of that day, and who then had an interview with the present Premier of the Dominion, the Right Honourable Sir Wilfred Laurier, first located his land in 1879. He applied to Mr. Fawcett, and, as he had heard of the Railway Reserve asked him whether, if he was taking up land as a home for himself and family, he would take a piece of the tract reserved. Mr. Paterson swore that Mr. Fawcett said he would, and I believe Mr. Paterson. Depending on Mr. Fawcett's answer, Mr. Paterson went on the land he had selected and made it his home. His improvements are valuable and he is living on the land to-day. When Mr. Prior was agent Mr. Paterson had his land surveyed. He brought the plan of survey to Mr. Prior who took it and said "nothing." Mr. Paterson's application was in writing. It was produced by Mr. Bray and a copy of it is attached to the evidence, and I have not the slightest doubt that when Mr. Paterson left it with Mr. Fawcett he firmly believed that he would in time receive the usual Crown grant for his land.

Mrs. Agnes Frew, to whose deceased husband a Crown grant had issued, in his lifetime, for 196-75 acres of "Belle Isle Island," and by which the only minerals reserved were gold and silver, applied in 1880, for the remainder of the Island, 83-25 acres. Mr. Bray gave her to understand she could have it, but subsequently she applied to Mr. Gore, who told her it belonged to the Railway Company.

Mr. Samuel Jones having in 1880 agreed to buy the stock and improvements Mr. Crane had made upon a certain piece of land, made enquiry of the then agent as to Mr. Crane's right to the land before he—Mr. Jones—closed the purchase.

Mr. William Hodson, who first located his land in 1877, made a verbal application to Mr. Fawcett, who did not warn him off the land, but on the contrary simply told him it was not in his power to give him any right to the land at that time. Mr. Hodson surely expected from Mr. Fawcett's reply that he would in time receive entry for his land, as he went ahead and made very valuable improvement upon it.

Mr. George Taylor did not locate his land until 1883, but his claim to it was based upon the prior claim or right thereto of a Mr. McKay, whose improvements upon the land he had purchased. Mr. Bray recognized his right to the land before he obtained a pre-emption record in 1884. A Mr. Frank Holden wanted 60 acres of it, but his application was refused by Mr. Bray who decided that Mr. Taylor was entitled to the land.

Mr. William Jack first located his land in 1876, and in that year he and a partner, Mr. Emmanuel Wiles, made application to Mr. Fawcett, in writing, for two adjoining parcels of land. Mr. Fawcett took Mr. Jack's application, wrote his name on an envelope, and put both in a drawer in the office, saying that he could do nothing further for him then, but would let him know later on and that he would have the first right to the land.

Mr. McGregor applied in 1879 for his land, to Mr. Prior, who took his application, and said that the land was not open for entry just then, but that he would keep the application until the land was thrown open.

Mr. Emmanuel Wiles gave evidence on the point I am now dealing with, which corresponds with the evidence of Mr. Jack before noted. Mr. Fawcett took his application and put it away and told him he would have to pay for the land when notified, that he could go on the land and would get it when it came into market.

Mr. William Morgan, in 1882, bought out the interests of Mr. Bruno Mellado, who he believed had taken up the land in 1876. At all events when he bought it he went to Mr. Bray's office, and Mr. Bray first looked at the conveyance to him, Mr. Morgan, of Mr. Mellado's improvements and "transferred Mellado's right to him," Morgan.

Mr. Charles Bennie located his land in 1881. He then applied for entry to Mr. Bray who told him that all he could do was to put a mark on the section on the plan. Part of the lands so applied for was an Island, but as there was another applicant for it, Mr. Bray refused to note his claim as to the Island but set aside other land in lieu of it for him.

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Mr. James Malpass, to whose evidence I desire to draw particular attention, as I was very much impressed with both the man and his statements, and know that he is held in the highest esteem by his neighbors and by all who knew him, who spoke of him to me, stated that he first took up his land in 1879, when he made a written application to Mr. Prior for it; that Mr. Prior told him he could not record his entry, but that he could leave his application and when the lands were thrown open to entry he would get the first chance; that neither Mr. Prior nor any one else objected to his going on the land, but that they encouraged the settlers to remain on their lands. I wish to draw special attention to the following statement which Mr. Malpass made:—"The officials at Victoria, the Premier at that time and our member advised us to stay on the land, they thought it would be safe to stay on the lands and when there was a settlement we would get our rights."

Mr. Patrick Dolan first located his land in 1879, when he made application to Mr. Prior for it. His application was one of those which Mr. Bray was able to produce. A copy of it is embodied in the transcript of Mr. Dolan's evidence. The original bore Mr. Prior's initials. Mr. Dolan's statement with regard to Mr. Prior's acceptance of it, after he had made his initials upon it, was: "I will put it away for you, Mr. Dolan, and you will have first right to the land when it is thrown open." He also swore that Mr. Prior advised him to go into possession of the land, "as if he didn't somebody else might get it;" that he advised him, Mr. Dolan, to build a house on it; that he did so and that he and his family had been living there ever since and were living there when he gave his evidence. The extent and nature of the improvements which Mr. Dolan made upon his land show him to be a settler of whom any country should be proud. After Mr. Bray had succeeded Mr. Prior, Mr. Dolan purchased the improvements of a Mr. Samuel Saunders on an adjoining 160 acres of land, and his rights thereto; he told Mr. Bray of the transfer to him, and as Mr. Bray told him he could not hold the Saunders claim and the lands he had originally located, as he would not have more than 160 acres, he selected the 160 acres for which he subsequently obtained from the Railway Company a grant of the surface rights only.

Mr. John Hill first located his land in 1879. He made verbal application for it to Mr. Prior, who said "Jack, I cannot give you any record of your lands now, the lands are locked up," but that "he would have first chance."

Mr. Thomas Rickard, who took up his land in 1877, swore that he applied verbally to Mr. Fawcett, who gave him "good encouragement" to go on the land. He did so, substantially improved the land and proved himself to be a good settler.

Mr. Joseph Hoskin, whose land was first located by his son in 1878, went to Mr. Bray about two years, or so, afterwards, and Mr. Bray struck out the son's name, and put on the father's name for the land in question.

Mr. Parker White, a poor man, who after struggling for years to acquire a home for himself and who yet resides upon the land he selected for that purpose, although he is no longer its owner, having been unable to pay off certain loans made to him to secure the payment of which he had executed mortgages against it, appeared before me on behalf of the present owner. Mr. White's evidence was, in effect, that he first located the land in 1877, had applied to Mr. Prior for a pre-emption record, in writing, and that Mr. Prior had put it in a box and given him to understand that when the other settlers got their lands he would get his.

I have noted only those cases in which the claimants appeared before me, and gave evidence upon the point now being considered, namely, what effort they made to obtain entry, and what the reply or action of the Agent was to whom the application was made. Mr. Bray, in his examination, stated that his answer to all who applied to him for entry was "that lands were reserved for railway purposes."

Now, very few of the claimants who gave evidence denied having knowledge of the reserve. On the contrary, nearly all of them acknowledged that they were aware of the reserve, when they went upon the lands they selected. But from what was said and from what was done by the Agent, they without question expected that the tract reserved would be thrown open to entry, and that they would each get the usual title to the lands they claimed. I, therefore, deem it advisable to give in this report the effect of many of the claimants' evidence upon this latter point.

Mr. Thomas Cassidy, a very intelligent, though uneducated man, who gave answers carefully and with evident desire to speak "nothing but the truth," stated that when he paid for his land, after obtaining a record for it, he thought he was paying for all rights, and that he did not know that he had not got them till he received the patent which was issued, for the surface rights only of his land, by this Department. He knew of the reserve, but "not being an educated man he took other peoples' word that he would be safe in taking up the land; that he always believed that he would get the minerals, and that the agent had never told him he would not get them."

Mrs. Elizabeth Fiddick, who claimed from one John Grandam, who first located the land in 1875, stated that she was disappointed when she received the patent for and found the minerals reserved.

Mr. George Vipond, who received a deed from the railway company for the surface rights only, gave evidence to the same effect.

Mr. Archibald Hamilton, who received a patent, issued by this Department, for the surface rights of the land he claimed, gave similar evidence.

Mr. James Paterson swore that when he paid for his land he expected he was paying for it "in its entirety," and that at first he refused to accept a grant for the surface rights only.

Mr. Samuel Jones stated that when he paid for his land he "expected to get it as all former settlers had got theirs;" that had he known his patent was going to contain the reservations it does contain he would never have paid for his land.

Mr. Daniel Webster Cochran, who received a deed from the railway company for the land his deceased father-in-law had taken up in 1877, never knew the minerals would be reserved until he got his deed.

Mr. Andrew McKinley, who first located his land in 1877, and applied to Mr. Fawcett in writing for it, has never received a deed for his land. He obtained a record for it from Mr. Bray in 1884, but stated positively that nothing was said about surface rights. He afterwards paid for the land, but did not consider the deed in the form used by the company was worth asking for. He would not take a deed in that form if one was offered to him.

Mr. William Hodson admitted that he knew of the reserve, but stated that he expected to get the minerals until he received his deed, that until then he always expected the same title to his land that settlers outside of the reserve got to theirs.

Mrs. Isabella Bates gave similar evidence. So did Mr. George Taylor, who although he had heard rumors that they wouldn't get the minerals, believed that as certain of his neighbors, who had obtained title to their lands by Provincial Crown grant, had got their minerals, he would get his. They pay \$1 per acre, so did he. Mr. Taylor also stated that he would not have paid for the land had he not expected the minerals.

Mr. William Jack stated that when he applied to Mr. Fawcett in 1876 a grant of lands without the minerals was unknown, that everything was covered by the Crown grant, except gold and silver.

Mr. George McGregor, who had paid for his land and who held a receipt for it, stated that he had never thought it worth his while to apply for a deed after he saw the form of a deed which was being issued by the Company, that he "wanted a home of his own the same as people got in other parts of the province," and that he did not consider he had got what he had applied for or what he had paid for.

Mr. Emmanuel Wiles did not want to take his deed when he saw the kind it was, and he only took it because "it was that or nothing."

Mr. William Morgan also stated that he didn't know he would only get the surface rights until he got his deed from the Company; thought when he paid for the land he was paying for both the surface and under-rights, and considered he had been "robbed of his rights."

Mr. Charles Bennie, who had nothing but a receipt for his purchase money, stated that he would not have paid for the surface rights only, and that he would not ask for a deed in the form used.

Mr. James Malpass stated that he first heard the minerals were reserved by the Clement's Act; that although a protest was made then he did not feel certain they would not get the minerals until he got his patent, and that he knew of the reserve when he

man, who gave the truth," stated that he was paying for the surface rights until he received the patent for the surface rights by this Department. Other peoples' words were that he would get them.

Mr. Patrick Dolan gave similar evidence, so did Mr. John Hill. Mr. Isaac Emblen, a young Englishman, who had only come to the Province from Liverpool in 1882, and who stated that he had not even heard of the reserve, also stated that he was certain he was paying for both the minerals and the surface until he got his deed. He refused to accept his deed when he saw what his title was.

Mr. Lawrence Manson, one of Nanaimo's leading merchants, who became possessed of land located by one John Ead in 1879, and who paid his purchase money before he saw the patent which issued in Ead's favour by the Department of the Interior, stated he believed when he was paying his purchase money "he was purchasing the land entire," although he was aware of the reserve of the Railway Belt, he did not know that the minerals were reserved until he got his patent. Mr. Manson also stated that his assessment notices for the taxes on the land, contained no reference to his being the owner of the surface rights only. The fact that Mr. Manson is a merchant and not a farmer or miner, as nearly all the other claimants are, and that he did not know that the settlers were to be granted the surface rights only, is of itself strong proof that the provisions of section 23, of chapter 14 and of sub-section 2, of section 7, of chapter 6, had not been made known to the public as clearly as they should have been, if indeed they were ever made known except in so far as the passing and publication of the Acts which contain them, and as the notice of the 7th May, 1884, made them known.

Mr. Thomas Rickard acknowledged he knew of the reserve of the land, but stated he expected to get everything, until he got his deed.

Mr. Joseph Hoskin's testimony on this point is to the same effect.

Mr. Samuel Bennie, whose title to all of his land, except 25 acres, is under Provincial Crown grant,—which, therefore, covers the minerals,—and who when he found that most of the improvements, which it was thought were on the Crown granted lands, were on this 25 acres, applied for this piece of land, and in 1884 paid the \$1 per acre for it, would not take a deed for it in the form which was issued by the company to the settlers, as he considered "two persons could not own one piece of land."

Other persons who appeared before me and whose names I have not mentioned gave similar evidence, and I may close my remarks upon this point with reference to a statement made by Mr. C. C. McKenzie, ex-M.P.P., whose business includes that of securing loans on mortgage security. Mr. McKenzie has lived in Nanaimo for many years, and because of his position and business, should have known, it is assumed, what these settlers were to receive, in full satisfaction of their claims. In his evidence as a witness for Mr. Emblen, his statement that he advised Mr. Emblen and a Mr. Fiddick, another settler, not to take a deed in the form which was being used by the company, is a fair expression of a disinterested person's opinion upon the title that was being granted to the settler.

I think no further comment is necessary to support my opinion that the settlers had strong grounds for believing and expecting not only that they would receive the same title to the lands they claimed, but that they would ultimately receive the same title thereto which other settlers, on lands outside of the tract reserved, obtained by Provincial Crown grant. Outside of the evidence I have referred to, the possibility of a grant of the surface rights only did not arise until the Clement's Act was passed, and as nothing was done under its provisions, it must be acknowledged, in view of the purport of the sworn testimony of so many persons and of the action taken by Mr. Fawcett, Mr. Prior and Mr. Bray to protect them, at different times, with regard to their lands, that they were considered to be entitled to such lands, that the extent of such rights as understood by the settlers was well known, and that before they were deprived of any part thereof they were at least entitled to be heard. The blame does not attach to the above named gentlemen, to the officials of the Department of Lands and Works, nor to the shareholders of the Esquimalt and Nanaimo Railway Company, but it does attach to those who are responsible for the provisions of the Provincial Act chapter 14, 47 Victoria, and of the Dominion Act, chapter 6, 47 Victoria, to which I have repeatedly referred. The officials who had to administer the law, appear to have gone beyond the powers of their office in holding for the settlers the lands they claimed. The shareholders of the railway company

wanted the best terms that could be secured, and they got them; settlers' rights were an obstacle to be considered, and the necessary legislation was quickly and quietly obtained to trim down such rights to suit the wishes of the shareholders. The then Government of the Province of British Columbia is responsible for that legislation, and it is to Government of that Province those who suffer from the injustice done, must look for redress. The duty of the then Dominion Government in the matter was only that of trustee. True, the petition of 1882 received but the worst kind of attention, and similar indifference to these settlers' rights was displayed in the preparation and passing of the Dominion Act, chapter 6, 47 Victoria; but the duty of safe-guarding the settlers' question was upon the Government of the Province.

When the provisions of chapter 14 and chapter 6 came to be administered, it was found, said Mr. Gore in his evidence, that no procedure had been thereby established under which the squatters' cases could be dealt with, and the laws in that behalf of the Province with regard to other lands were therefore adopted.

I produced to Mr. Gore the letters and schedules, forwarded by the Chief Commissioner of Lands and Works, upon which the Department of the Interior issued patent to certain of the squatters in question. A copy of one of such letters, and a copy of the schedule which accompanied it, which Mr. Gore identified, with the other originals, are attached hereto. So also, are copies of a list of the patents issued by the Department of the Interior, of one of such patents, and of the patent issued by the Department to the railway company. In reply to a question as to the duty of the Department upon receiving a letter and schedule such as those above mentioned, he answered that it was incumbent on the Department to issue patents in favor of the persons named in the schedule for the land set opposite their respective names for the surface rights only. The Department of the Interior, therefore, issued patents to settlers in accordance with such letters and schedules, as they were received, until the company had completed the line of railway between Esquimalt and Nanaimo, when the grant to that company was made. After that date the lands were administered by the company, and those settlers who had not received patents from the Department had to pay their purchase money to the railway company's agent at Nanaimo, and to accept deeds in the form which the company adopted for the purpose.

The Order in Council of the 30th November, 1896, which is referred to in my commission, and of which a copy is thereto attached, particularly relates to a tract of 86,346 acres of land for a grant of which, so that it might be conveyed to the railway company, application had been made, such area being the area of lands to which according to the application, the Dominion Government was entitled, under the provisions of section 3 of chapter 14, as being "equal in extent to those alienated up to the date of this Act by Crown grant, pre-emption or otherwise, with the limits of the grant mentioned in section 3 of this Act," that is, within the limits of the tract of lands for which letters-patent issued to the company on the 21st April, 1887.

An impression prevailed when this Order of the 30th November, 1896, was passed that the mineral or under-rights of the lands so alienated had been granted to the company by the above mentioned patent of the 21st April, 1887, and that if the application now being referred to was acceded to the company would own the mineral or under-rights of the tract of 86,346 acres so alienated, and also of the tract of equal area referred to in the application.

A list of the alienated lands, the area of which amounts to 86,346 acres, was produced by Mr. Gore, when he gave his evidence before me, and a copy of it is attached hereto. It will be seen by referring to Mr. Gore's evidence with regard to this matter that the mineral or under-rights of such land do not belong to the company, as they had been granted to the respective pre-emptors or grantees of such lands, by Crown grant, issued by the province. I carefully examined the records in Mr. Gore's office and, outside of his evidence, satisfied myself that there were no grounds whatever for the position taken in the Order in Council of the 30th November, 1896, and that if no other obstacle exists, the application I have referred to should be acceded to without further unnecessary delay.

It is not out of place for me to note here that although a copy of the Order of the 30th November, 1896, was submitted to the Provincial Government in the usual manner,

settlers' rights were and although attention was subsequently repeatedly called to it, no action has thus far been taken by the Provincial Government concerning it or the matter to which it relates.

In view of all the circumstances which I have thought necessary to mention or refer to in this report, I consider it the duty of the Government of British Columbia, notwithstanding the position the settlers, who are affected by section 23 of chapter 14 and subsection 2 of section 7 of chapter 6 unquestionably placed themselves in by accepting pre-emption records, subject to such provisions, to take prompt action which will satisfactorily remove the injustice which has resulted from these provisions, and which will end an agitation which was commenced when the provisions of section 19 of the Clement's Act were first known and which was resumed after the settlers found out that they had received or were to receive a grant of the surface rights only of the lands they had settled upon and, I think I may add without fear of contradiction, had been permitted to settle upon.

British Columbia, rich in her mines, her fisheries, her timber and other of nature's stores, gave bounteously of her most valuable lands to the builders of her Railway. Before such lands passed from her keeping it was the duty of that Province, the duty of those who were charged with the conduct of her public affairs, to make proper and sufficient provision for safe-guarding the rights of all settlers who went into occupation of any of such lands, under the circumstances which have been stated in this report. Such provision was not made, however, but, on the contrary, provisions which legalized the injustice against which the settlers had protested, were embodied in the Acts I have referred to. I repeat, therefore, that I consider it the duty of the Government of British Columbia to take such action as will promptly and satisfactorily remove the injustice.

I cannot close this report without expressing my appreciation of the assistance given to me by Mr. Gore, Deputy Commissioner of Lands and Works, at Victoria, and by Mr. Bray, Assistant Commissioner of Lands and Works, at Nanaimo, in my examination of the records of their respective offices with regard to this matter; or without drawing attention to the very intelligent and satisfactory manner in which Miss Barber performed the duties that were assigned to her.

I have the honour to be, Sir,

Your obedient servant,

T. G. ROTHWELL,

Commissioner.

referred to in my plates to a tract of land conveyed to the railway under the provisions of the Act of 1896, was passed

1896, was passed granted to the company if the application for mineral or underground area referred

86,346 acres, was of it is attached to this matter by Crown grant, by the office and, out of the position no other obstacle further unnecessary

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COPIES OF COMMISSION

AND OTHER

DOCUMENTS REFERRED TO IN REPORT.

Extract from a Report of the Committee of the Honourable the Privy Council, approved by His Excellency on the 10th August, 1897. P. C. No. 2393.

On a Report, dated 5th August, 1897, from the Minister of the Interior, submitting that he has had under consideration the several matters dealt with in the Order in Council of the 30th November, 1896, of which as well as of the despatch and enclosures referred to in such Order, copies are hereunto annexed, and that he has arrived at the conclusions that it is desirable that the nature of the title, of any settler upon the tract of lands mentioned in such Order as having been already conveyed to the Esquimaux and Nanaimo Railway Company, to land within such tract, purchased or pre-empted by him should be ascertained without further delay, where such settler having been granted the surface rights only to such land considers that he has thereby been deprived of rights guaranteed to him by Sub-section 5 of Section 7 of the Act 47 Victoria, Chapter 6.

The Minister therefore respectfully submits that it is expedient to afford each of such settlers on the tract of lands before mentioned claiming to be entitled to more than a grant of the surface rights only to any land within such tract, or any person claiming title from such settler, an opportunity of establishing his title to the land he claims, before a Commissioner to be appointed by Your Excellency in Council, and to be clothed with the powers of summoning witnesses and of requiring them to give evidence on oath, and with the other powers which may be conferred upon him under the provisions of Chapter 114 of the Revised Statutes of Canada.

The Minister therefore recommends that Thomas Gainsford Rothwell, of the City of Ottawa, in the Province of Ontario and Dominion of Canada, Law Clerk of the Department of the Interior, be appointed a Commissioner for the purpose aforesaid, to conduct an enquiry into each and every claim of the nature before mentioned, and that he be also authorized to enquire into and report upon any other matters connected with or in any way concerning the said tract of lands or any matter relating thereto, which may appear to him material that Your Excellency in Council should be informed of; and that there be conferred upon him by his Commission, all powers which Your Excellency in Council is authorized to confer by virtue of the provisions of the Act last above referred to.

The Committee submit the above recommendation for Your Excellency's approval.

H. G. LAMOTHE.

Assistant Clerk of the Privy Council.

To the Honourable
The Minister of the Interior.

GREAT SEAL
OF
CANADA.

ABERDEEN.

CANADA.

VICTORIA, by the Grace of God of the United Kingdom of Great Britain and Ireland, QUEEN, Defender of the Faith, etc., etc.

TO ALL TO WHOM THESE PRESENTS SHALL COME : OR WHOM THE SAME MAY IN ANYWISE CONCERN,—GREETING :—

Council, approved

WHEREAS it appears from a report from Our Minister of the Interior that it is desirable that the nature of the title of any settler upon the tract of lands mentioned in the Order of His Excellency, the Governor General in Council, bearing date the thirtieth day of November, in the year of Our Lord one thousand eight hundred and ninety-six (a copy of which is hereunto annexed) as having been conveyed to the Esquimalt and Nanaimo Railway, to land within such tract purchased or pre-empted by him, should be ascertained without further delay, where such settler having been granted the surface rights only to such land, considers that he has thereby been deprived of rights, guaranteed by Sub-section 5 of Section 7, of the Act passed in the 47th year of Our Reign Chaptered 6, and intituled "An Act respecting the Vancouver Island Railway."

AND WHEREAS we deem it expedient that each of the settlers on the tract of lands before mentioned claiming to be entitled to more than a grant of the surface rights only to any land within such tract, or any person claiming title from such settler, should be afforded an opportunity of establishing his title to the land he claims before a Commissioner appointed for such purpose, and also that the said Commissioner so appointed should also enquire into and report upon any other matters and things connected with or in any way concerning the said tract of lands or any matter relating thereto, which may appear to him material that Our Governor in Council should be informed as to ; and further that inquiry under oath should be made with respect to such titles, claims, matters and things hereinbefore mentioned, and set out :—

NOW KNOW YE that We, by and with the advice of Our Privy Council for Canada, do by these presents nominate, constitute and appoint Thomas Gainsford Rothwell, of the City of Ottawa, in the Province of Ontario, in Our Dominion of Canada, Esquire, Law Clerk of the Department of the Interior, to be a Commissioner to enquire into, investigate, hear and report with respect to such titles, claims, matters and things as are, hereinbefore more particularly mentioned and set out. And We do hereby, under the authority of the Revised Statutes of Canada, Chapter 114, intituled "An Act respecting Inquiries concerning public matters," confer upon you, Our said Commissioner, the power of summoning before you any witness and of requiring them to give evidence on oath, orally or in writing, or on solemn affirmation, if they are persons entitled to affirm in civil matters, and to produce such documents, and things as you, our said Commissioner, shall deem requisite to the full investigation of the matters into which you are hereby appointed to examine, inquire into and investigate.

To have, hold, exercise, and enjoy the said office, place and trust unto you the said Thomas Gainsford Rothwell, together with the rights, powers, privileges and emoluments unto the said office, place and trust of right and by law appertaining during pleasure.

And We do hereby require and direct you to report to Our Minister of the Interior, the result of your investigation, together with the evidence taken before you and any opinion you may see fit to express thereon.

IN TESTIMONY whereof, We have caused these Our Letters to be made Patent and the Great Seal of Canada to be hereunto affixed—Witness Our Right Trusty and Right Well-Beloved Cousin and Councillor, The Right Honourable Sir John Campbell Hamilton Gordon, Earl of Aberdeen, Viscount Formartine, Baron Haddo, Methlic, Tarves and Hallie in the Peerage of Scotland, Viscount Gordon of Aberdeen, County of Aberdeen,

in the Peerage of the United Kingdom, Baronet of Nova Scotia, Knight Grand Cross of Our Most Distinguished Order of Saint Michael and Saint George, etc. etc., Governor General of Canada.

At Our Government House in Our City of Ottawa, this tenth day of August, in the year of Our Lord one thousand eight hundred and ninety-seven, and in the Sixty-first year of Our Reign.

By command,

JOSEPH POPE,
Under Secretary of State.

A. POWER

For the Deputy of the Minister of Justice,
Canada.

COMMISSION APPOINTING THOMAS GAINSFORD ROTHWELL, ESQUIRE

A commissioner under chapter 114 (R.S.C.) to enquire into, investigate, hear and report with respect to the claim of certain settlers within a tract of land conveyed to the Esquimalt and Nanaimo Railway Company.

Dated 10th August, 1897.

Recorded 31st August, 1897,
Lib. 120, Fol. 432.

JOSEPH POPE,
Deputy Registrar General of Canada.

Extract from a Report of the Committee of the Honourable the Privy Council, approved by His Excellency on the 30th November, 1896. P. C. No. 1568 J.

Despatch and 8 Enclosures.

The Committee of the Privy Council have had under consideration a communication, hereto attached, dated 25th June, 1896, from the Private Secretary of the Lieutenant-Governor of British Columbia, transmitting a Minute of the Executive Council of that Province, relating to the lands on Vancouver Island, for a grant of which application has been made by the British Columbia Government, at the instance and on behalf of the Esquimalt and Nanaimo Railway Company.

The Acting Minister of the Interior, to whom the matter was referred, submits the following report thereon:—

The Order in Council of the 30th July, 1895, recites the facts with regard to the Railway Company's application for a grant of 86,346 acres to take the place of the lands which had been alienated from the Crown prior to the date of the transfer made by the Province of British Columbia to the Dominion of Canada by the Provincial Act 46 Victoria, Chapter 14. Under authority of that Order in Council, application was made to the Lieutenant-Governor of British Columbia, to have the 86,346 acres mentioned placed at the disposal of the Dominion Government for the purpose of being conveyed to the Railway Company. It appears from the Minute of the Executive Council of British Columbia, dated 5th June, 1896, that the Provincial authorities admit that the Dominion Government are entitled to a grant or conveyance of the area mentioned for the purpose of completing the Railway Company's grant, but submit that the company are not entitled to select the block which has been applied for, as shewn

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approximately hatched in red on the annexed plan, marked A. Instead of that block the Provincial Government submit that, for the reasons set forth in the Minute of the Executive Council, the grant to the company should consist of the block shewn hatched in green on the same plan.

Although the application of the company does not specifically make reference to the mineral rights in the tract of 86,346 acres applied for, it is apparently understood, so far as they are concerned, that the grant is not to be confined to the surface rights. In this connection, the Acting Minister of the Interior submits a copy of a question which was asked by Mr. W. W. B. McInnes, M.P., in the House of Commons during last Session, with regard to the claims of certain settlers within the tract of land already conveyed to the company. These settlers evidently are under the impression that they have been deprived of rights guaranteed to them by sub-section 5 of section 7 of an Act passed by the Parliament of Canada in the 47th year of Her Majesty's Reign, intituled "An Act respecting the Vancouver Island Railway." Appended to Mr. McInnes's question is a copy of the reply which was made thereto on behalf of the Government.

The Acting Minister of the Interior understands from Mr. McInnes that the settlers referred to include those who were the holders of pre-emption records prior to the date of the Provincial Legislation of 1883, and that the Province, in dealing with the claims of such settlers, granted the surface rights only, and Mr. McInnes contends that, if the company are to receive the mineral rights in the tract of 86,346 acres for which they are now applying, it would be but right that the settlers in question should now be granted the mineral rights as well as the surface rights contained within their respective holdings.

If it be the fact, as alleged by Mr. McInnes, that the grants made by the Province to the pre-emptors referred to did not include the right to the minerals, and that such right has passed to the company, his contention in the premises would appear to be well founded, at least to the extent that the Railway Company cannot be entitled to the mineral rights in the tract of 86,346 acres, which has been patented to the settlers, and also in the 86,346 acres for which they have applied by way of compensation.

The Acting Minister of the Interior is, therefore, of the opinion that, in pursuance of the trust imposed upon the Dominion Government by the terms of the respective Acts of the Province of British Columbia, and of the Dominion of Canada, in relation to the Esquimalt and Nanaimo Railway Company's land grant, it would be desirable that the Dominion Government should ascertain the nature of the title granted by the Province to the pre-emptors in question, and also the views of the Government of British Columbia upon Mr. McInnes's proposition.

The Acting Minister of the Interior, having this object in view, recommends that a copy of the Order in Council hereon be transmitted to the Lieutenant Governor of British Columbia, with the request that it be brought to the attention of his Executive Council, and that they be invited to send to the Dominion Government, at as early a date as possible, a statement of their conclusions in the premises.

The Acting Minister of the Interior adds that, in the meantime, he has communicated to the Railway Company the reply of the Provincial Government, and has asked the Company to state whether they accept the proposition of the Province. He has also informed the Company of the contentions of Mr. McInnes on behalf of the pre-emptors, and that the views of the Provincial Government are being asked in this relation.

The Committee, approving of the report of the Acting Minister of the Interior, submit the same for Your Excellency's approval.

JOHN J. MCGEE,

Clerk of Privy Council.

To the Honourable

The Minister of the Interior.

With P. C. No. 1568 J—1896; Ref. 409,311 & 426,115 on 82,810 (3).

GOVERNMENT HOUSE,

VICTORIA, 25th June, 1896.

Sir,

In the absence of His Honour the Lieutenant Governor, I beg to transmit, herewith, a certified copy of an approved Minute, dated the 3rd instant, embodying a recommendation that a grant of certain lands on Vancouver Island, be made to the Federal Government on behalf of the Esquimalt and Nanaimo Railway Company.

I have, &c.,

MALLCOTT RICHARDSON,

Private Secretary.

The Honourable

The Secretary of State for Canada,
Ottawa, Ont.

Copy of a Report of a Committee of the Honourable the Executive Council, approved by His Honour the Lieutenant Governor on the 5th day of June, 1896.

On a Memorandum from the Honourable the Chief Commissioner of Lands and Works, dated the 3rd of June, 1896, referring to a communication from the Acting Under Secretary of State for the Dominion, dated 13th August, 1895, enclosing an extract from a Report of the Committee of the Honourable the Privy Council, approved by His Excellency on the 30th July, 1895, covering a report from the Honourable the Minister of the Interior bearing date 11th July, 1895, on the subject of an application from the Esquimalt and Nanaimo Railway Company for a conveyance of 86,346 acres of land (the location of which is more particularly indicated by a map which accompanies the application) under Section 5 of 47 Vic., Chap. 14, Provincial Statutes; and paragraph (b) of the Agreement confirmed by Section 1 of the said Act.

The Minister reports that 86,346 acres correctly represents the quantity of land which has been alienated by the Province within the limits of the grant mentioned in Section 3 of the Act cited and that the Dominion Government are entitled to a grant of conveyance of that quantity of land, but that they are not entitled to select the block extending to the northward of the 50th parallel of latitude and in the manner indicated by the map above referred to for the following reasons:—

1st. The block of land asked for by the Railway Company does not extend back from the coast the full width of the Railway Belt as contemplated by the Act, but covers a greater extent of coast frontage than is consistent with the word "contiguous" in paragraph (b) of the agreement before referred to.

2nd. Subsequent to the passage of the Act 46 Vic., Chap. 14 (12th May, 1883) the late Honourable William Smithe, Premier, and the late Honourable Robert Dunsmuir, M.P.P., in conference on the subject of the construction of the proposed Railway, and of the administration of the lands comprised within the limits of the Railway Belt, caused an estimate of the area of the alienated lands referred to in paragraph (b) of the agreement embodied in said Act to be made, and its position north of and contiguous to the half-way line between the mouth of Courtenay River and Seymour Narrows to be defined approximately upon the large map of Vancouver Island which hangs on the wall of the Lands and Works office. This half-way line was found to be considerably to the south of the 50th parallel. It was then arranged and agreed upon verbally by Mr. Smithe

on 82,810 (3).

25th June, 1896.

to transmit, herewith
bodying a recommendation
to the Federal Government

and Mr. Dunsmuir that in order to avoid delay and the retarding of settlement the 50th parallel should be taken as a line to the northward of which the Government should have the right to dispose of lands on behalf of the Province, and the true position of the boundary of the Railway Belt to the south of that parallel to be determined at a future date. In furtherance of that understanding His Honour the Lieutenant-Governor in Council directed that the notice of the 1st July, 1873, reserving a strip of land 20 miles in width along the eastern coast of Vancouver Island for railway purposes be rescinded, and further directed the establishment of another reservation of land in aid of the construction of the Island Railway. Notice of this later reservation was published in the British Columbia *Gazette* and dated 12th June, 1883, and a copy is annexed to the Minute.

SON,
Private Secretary.

By reference to this notice it will be seen that the northern boundary of this reserved belt is defined as "straight drawn from Crown Mountain towards Seymour Narrows to the 50th parallel of latitude; thence due east along said parallel of latitude to a point on the coast opposite Cape Mudge." Subsequently an engineer was employed to define and mark on the ground the position of the 50th parallel, and all lands north of it which come within the scope of this Minute have been disposed of and alienated by the Province, and are not available for railway purposes.

That the Esquimalt and Nanaimo Railway Company acquiesced in this disposition of these lands is evident from the fact that they never filed any protest against sales being made to persons who published notices of their desire to purchase or lease as required by the Land Laws at that time.

Council, approved
1896.

The Minister recommends that a grant be made to the Dominion Government of 86,346 acres of land to the northward of and adjacent to the half-way line before referred to and extending back from the coast to the western boundary of the Railway Reservation, and as more particularly indicated upon the map accompanying this Minute and thereon coloured green, and that a copy of this Minute, if approved, be transmitted to the Secretary of State.

The Committee advise approval.

JAMES BAKER,
Clerk, Executive Council.

59 VICT.—ESQUIMALT AND NANAIMO RAILWAY LANDS.

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entitled to a grant of
to select the block in
the manner indicated

Return to an Address presented to His Honour the Lieutenant-Governor, praying him to cause to be sent down to the House a Return showing copies of the applications made to the Provincial Government by the Dominion Government on 13th August, 1895, and the Esquimalt and Nanaimo Railway Company on February 19th, 1896, or any applications made by the said parties at any other time, for grants or concessions of land in lieu of land alienated up to 19th December, 1883, within the Island Railway Belt, or for any other purpose, and copies of all correspondence in connection therewith.

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(12th May, 1883)
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GEO. B. MARTIN,
Chief Commissioner of Lands and Works.

Lands and Works Department,
16th April, 1896.

(Letter No. 3987, File No. 4481.)

DEPARTMENT OF THE SECRETARY OF STATE,

OTTAWA, 13th August, 1895.

SIR,—His Excellency the Governor General has had under his consideration in Council, a report from the Honourable the Minister of the Interior bearing date the 11th of July, 1895, in connection with the construction of a railway between Esquimalt and Nanaimo, and submitting in such connection a letter from the secretary of the Esquimalt and Nanaimo Railway Company.

The Minister having recited the facts in the case and having recommended, for the reasons and on the grounds set forth in his report above mentioned, that an application should be made to Your Honour for a grant of certain lands, and that when the lands which are the subject of such application have been handed over to the Government of Canada they be conveyed to the said Railway Company, in the same manner as those which have already passed to that company under patent from this Government, His Excellency in Council was pleased to make an order in the premises upon the 30th ultimo, a certified copy of which is herewith transmitted for Your Honour's information.

I have, &c.,

P. PELLETIER,

Acting Under Secretary of State.

His Honour

The Lieutenant-Governor of British Columbia.

Extract from a Report of the Committee of the Honourable the Privy Council, approved by His Excellency on the 30th July, 1895.

On a Report dated 11th July, 1895, from the Minister of the Interior, stating that by section 3 of Chapter 14 of the Statutes of British Columbia, 1883, there was granted to the Dominion Government for the purpose of constructing, and to aid in the construction, of a railway between Esquimalt and Nanaimo, a tract of land therein described. Sections 4 and 5 of the Act referred to are as follows:—

"4. There is excepted out of the tract of land granted by the preceding section all that portion thereof lying to the northward of a line running east and west half-way between the mouth of the Courtenay River (Comox District) and Seymour Narrows.

"5. Provided always that the Government of Canada shall be entitled out of such excepted tracts to lands equal in extent to those alienated up to the date of this Act by Crown grant, pre-emption, or otherwise, within the limits of the grant mentioned in section 3 of this Act."

Paragraph (b) of the preamble of the Act in question sets forth that the lands to which the Government of Canada shall be entitled under section 5 above quoted shall be to the northward of and contiguous to the tract mentioned in section 3.

The Minister observes that by the Act 47 Victoria, Chapter 6, the Parliament of Canada made provision for the construction of the railway between Esquimalt and Nanaimo by a Company (hereinafter referred to as "the Company"), and for the grant to such Company, of "all the land situated on Vancouver Island which has been granted to Her Majesty by the Legislature of British Columbia by the Act last aforesaid, in aid of the construction of the said line of railway, in so far as such land shall be vested in Her Majesty and held by Her for the purposes of the said railway, or to aid in the construction of the same."

On the completion of the railway a patent was issued to the company by the Government of Canada for the land on Vancouver Island which formed the subject of the Provincial Act of 1883. That patent specifically included "the full benefit and advantage of the rights and privileges granted to us by section 5" of the Act in question.

The Minister submits herewith a copy of a letter from the Secretary of the Esquimalt and Nanaimo Railway Company, setting forth that the company find, upon enquiry, that 86,346 acres of land within the limits of the tract conveyed to Canada as aforesaid had, prior to the date of such conveyance, been alienated by Crown grant, pre-emption or otherwise. They represent that they have, therefore, selected and caused to be surveyed a like area of land within the tract set apart for that purpose, and they request that application be made by the Government of Canada to the Government of British Columbia for a conveyance of this area, as shown upon the plan herewith, in order that it may be transferred to them.

The Minister further represents that the Minister of Justice, to whom the matter has been referred, states that the evident intention of the agreement between the two Governments was that the lands to be granted to the Government of Canada pursuant to section 5 of the Provincial Act, in lieu of lands which had been alienated, were to be used like the rest of the grant in aid of the construction of the railway, and that in his opinion the provisions relating to the land subsidy in the agreement with the contractors, as well as the authority to make the land grant to the company given by the Governor in Council in section 3 of the Dominion Act, must be taken to extend as well to these lands as to those actually granted by the Provincial Act itself.

The Minister of Justice advises, therefore, that it is the duty of the Government of Canada to apply to the Government of British Columbia for a transfer or grant of lands in substitution of those so alienated as aforesaid, and to convey such lands to the company when they are transferred.

The Minister recommends that application be made to the Lieutenant-Governor of British Columbia, and that when the lands which are the subject of that application have been handed over to the Government of Canada they be conveyed to the Esquimalt and Nanaimo Railway Company, in the same manner as those which have already passed to the company under patent from the Government of Canada.

The Committee advise that a certified copy of this Minute, if approved, be forwarded to the Lieutenant-Governor of British Columbia.

JOSEPH POPE,

Assistant Clerk of the Privy Council.

His Honour the Lieutenant-Governor
of the Province of British Columbia.

ESQUIMALT AND NANAIMO RAILWAY.

VICTORIA, B.C., December 13th, 1895.

To the Honourable
The Minister of Railways and Canals,
Ottawa.

SIR,—I am instructed by the Esquimalt and Nanaimo Railway Company to write you with reference to the lands to be granted to the Government of Canada under Section 5 of 47 Vic., Cap. 14, Provincial Statute, and intituled "An Act relating to the Island Railway, the Graving Dock, and Railway Lands of the Province."

By this section the Government of Canada is entitled out of the lands excepted by Section 4 of the said Act to lands equal in extent to those alienated up to the date of the said Act (19th December, 1883), by Crown grant, pre-emption, or otherwise, within the limits of the grant mentioned in Section 3 of the said Act.

By paragraph (b) of the agreement, confirmed by Section 1 of the said Act, it is set forth that the lands to be so acquired shall be to the northward of and contiguous to that portion of the land to be granted as therein set forth.

By Act of the Dominion Parliament 47 Vic., Cap. 6, Section 3, power is given to the Governor in Council to grant to the Esquimalt and Nanaimo Railway Company, *inter alia*, all of the lands situated on Vancouver Island which had been granted to Her Majesty by the Legislature of British Columbia by 47 Vic., Cap. 14, in aid of the construction of the said line of railway, in so far as such land shall be vested in Her Majesty and held by Her for the purposes of the said railway, &c.

The Company, upon enquiry, find that 86,346 acres of land had been alienated by Crown grant, pre-emption, or otherwise, within the limits of the grant mentioned in Section 3 of 47 Vic., Chap. 14 (Provincial), and the Company therefore have had surveyed out of the excepted lands a quantity equal to that alienated, as shown upon the plan forwarded herewith and enclosed within the red lines.

The Company have the honour to request that you will cause application to be made to the Provincial Government for a conveyance of the said lands to the Dominion Government under Section 5 of 47 Vic., Chap. 14 (Provincial), in order that they may be transferred to the Esquimalt and Nanaimo Railway Company.

I have, &c.,

CHAS. E. POOLEY,

Secretary.

VICTORIA, B.C., 19th February, 1896.

The Honourable

The Chief Commissioner of Lands and Works,
Victoria.

SIR,—I have the honour, by direction of the Esquimalt and Nanaimo Railway Company, to forward you a plan of the land surveyed by the Company north of the line running east and west half-way, between the mouth of the Courtenay River (Comox District) and Seymour Narrows, which the Company desire the Government to convey to them under Section 5 of Chapter 14, of 1884, known as an Act relating to the Island Railway, etc.

On the said plan the land claimed by the Company under Section 5 is surrounded by a red band, and contains about 86,346 acres, the amount of land equal in extent to that alienated up to the date of the passage of the said Act by Crown grant, pre-emption, or otherwise, within the limits of the grant mentioned in Section 3 of the said Act.

As the Company are desirous of dealing with some of this land, I have the honour to request that you will cause a grant thereof to be issued to the Company at an early date.

I have, &c.,

CHAS. E. PERRY,

Secretary, E. & N. Railway Company.

VICTORIA, B.C., February 20th, 1896.

SIR,—I have the honour to acknowledge the receipt of your letter of the 19th inst., forwarding plan of the land surveyed by the Esquimalt and Nanaimo Railway Company north of the line running east and west half-way between the mouth of the Courtenay River and Seymour Narrows, which the Company desire the Government to convey to them under Section 5 of Chapter 14, of 1884, known as an Act relating to the Island Railway, etc., and asking that a grant of this land be issued to the Company at an early date.

I have, &c.,

GEO. B. MARTIN,
Chief Commissioner of Lands and Works.

Hon. C. E. POOLEY,
Secretary, E. & N. Railway Company,
Victoria, B.C.

"THE BRITISH COLUMBIA GAZETTE."

PUBLISHED BY AUTHORITY.

(Vol. XXIII, No. 24.)

VICTORIA, 14th June, 1883.

Notice.

His Honour the Lieutenant-Governor in Council has been pleased to direct that the notice dated 1st July, 1873, reserving a strip of land twenty miles in width along the eastern coast of Vancouver Island, between Seymour Narrows and the harbour of Esquimalt for railway purposes, be and is hereby rescinded; and that all public lands lying within the following described boundaries be reserved from the date hereof, in furtherance of the construction of the Island Railway, viz:—

A tract bounded on the south by a straight line drawn from the head of Saanich Inlet to Muir Creek, on the Straits of Fuca; on the west by a straight line drawn from Muir Creek, aforesaid, to Crown Mountain; on the north by a straight line drawn from Crown Mountain towards Seymour Narrows to the 50th parallel of latitude; thence due east along said parallel of latitude to a point on the coast opposite Cape Mudge; and on the east by the coast line of Vancouver Island to the point of commencement.

By Command,

WM. SMITHE,
Chief Commissioner of Lands and Works.

Lands and Works Department,
Victoria, B.C., 12th June, 1883.



NOTICE is hereby given that in and by virtue of a Commission, under the Great Seal of Canada, issued under the provisions of Chapter 114 R.S.C., and to me directed authorizing me to investigate, hear and report upon all material facts relating to the alleged rights of certain settlers, or any person claiming from any of such settlers, to the under rights as well as the surface rights of certain lands in Vancouver Island, granted by Her Majesty Queen Victoria as represented by the Dominion of Canada, by letters-patent, bearing date the 21st April, 1887, to the Esquimalt and Nanaimo Railway Company, I shall open the said Commission at the Court House in the City of Nanaimo, on Monday, the 20th September, instant, at 11 o'clock, a.m. and thereafter from day to day, as such session may be by me adjourned, either at the said Court House in the said City of Nanaimo, or at such other place as I may name and appoint, shall attend for the purpose of enquiring into all matters specified or referred to in the said Commission, concerning the said lands; and all persons who are interested in the said enquiry in any way, or who desire to give or submit evidence relating thereto, and who appear before me, as above appointed, shall be heard.

Dated at Victoria, this 11th day of September, A. D. 1897.

T. G. ROTHWELL,
Commissioner.

N.B.—Unauthorized publication of this notice will not be paid for.

T. G. R.

COURT HOUSE, NANAIMO, B. C., 20th September, 1897.

Mr. T. G. Rothwell, Law Clerk of the Department of the Interior, the Commissioner appointed by His Excellency the Governor-General in Council, and who by his Commission, (of which a copy is hereto attached) issued under the Great Seal of Canada, and under the authority of the provisions of the Revised Statutes of Canada, Chapter 114, had thereby conferred upon him the powers, privileges and authority therein mentioned, attended at the above place, on the above date, for the purpose of proceeding with the enquiry to be held by him under such Commission, namely an inquiry into the alleged claims, as therein set forth, of certain settlers upon the tract of land which was conveyed to the Esquimalt and Nanaimo Railway Company by letters-patent issued by the Department of the Interior under and in accordance with the provisions of the Dominion Statute, Chapter 6, and the Provincial Statute, Chapter 14, 47 Victoria.

Before reading his Commission and other papers hereafter mentioned, the Commissioner explained to those of the settlers and other persons who were present, the nature and purpose of the enquiry to be held under such commission and that it had been granted upon the recommendation of the Honorable the Minister of the Interior, based upon the strength of promises which had been repeatedly made to the settlers whose claims were to be investigated, and which had been lastly urged by Mr. W. W. B. McInnes, M.P.

The Commissioner also explained that the evidence would not be taken down by a stenographer, but would be taken by an expert typist, as he proposed to read to each witness the evidence such witness had given, and to have him sign it, immediately after he had finished giving it, and before he left the Court House. This action the Commissioner stated could not be done if the evidence was taken by a stenographer, but could be done easily with the assistance of Miss Barber, the expert to whom he had referred, who was able to take the evidence, both question and reply, as spoken. By

this means, he stated he was certain he would not only be able to hasten the enquiry to completion, but would be able to save every one appearing before him considerable time in appearing before him, and, therefore, considerable expense.

The Commissioner then read his commission, the copy thereto attached of the Order-in-Council, before referred to, of which a copy is also attached hereto, and also the notice of the holding of the enquiry, of which notice a copy is also attached hereto, and which had been inserted in the following newspapers:—

"The Colonist," Victoria, B.C.; "The Times," Victoria, B.C.; "The Province," Victoria, B.C.; "Nanaimo Free Press," Nanaimo, B.C.; "The Review," Nanaimo, B.C.; "The Enterprise," Wellington, B.C.; "The Weekly News," Union, Comox, B.C.

The reading of the Commission and other papers having been completed, and the Commissioner having administered the necessary oath to Miss Barber, he declared the court open for the taking of the evidence to be given before him.

By consent, Mr. G. E. Cane, barrister-at-law, Nanaimo, appeared on behalf of those of the settlers who had retained him to submit their respective claims, and the Honourable C. E. Pooley, Q.C., Victoria, appeared on behalf of the Esquimalt and Nanaimo Railway Company.

BEATRICE BARBER,
Secretary to Commissioner.

(Liber 23, Folio 449.)

JOHN J. MCGEE,
Deputy Governor.

CANADA.

VICTORIA, by the Grace of God, of the United Kingdom of Great Britain and Ireland
QUEEN, Defender of the Faith, &c., &c., &c.

To all to whom these presents shall come:—

GREETING.

Whereas by an Act of the Legislature of British Columbia, passed in the forty-seventh year of Our reign, chapter 14, and intituled "An Act relating to the Island Railway, the Graving Dock and Railway Lands of the Province" after reciting as is therein recited there was by section three of the said Act granted to the Dominion Government for the purpose of constructing and to aid in the construction of a railway between Esquimalt and Nanaimo, and in trust to be appropriated as they may deem advisable, but save as is therein excepted all that piece or parcel of land situate in Vancouver Island, described as follows: Bounded on the south by a straight line drawn from the head of Saanich Inlet to Muir Creek, on the Straits of Fuca; on the west by a straight line drawn from Muir Creek aforesaid, to Crown Mountain; on the north by a straight line drawn from Crown Mountain to Seymour Narrows; and on the east by the coast line of Vancouver Island to the point of commencement, and including all coal, coal oil, ores, stones, clay, marble, slate, mines, minerals and substances whatsoever thereupon, therein and thereunder.

And whereas by section four of the said Act there was excepted out of the tract of land granted by the said section three, all that portion thereof, lying to the northward of a line running east and west half-way between the mouth of the Courtenay River (Comox district), and Seymour Narrows.

And whereas by section five of the said Act it was provided that the Government of Canada should be entitled out of such excepted tract to lands equal in extent to

those alienated up to the date of the said Act by Crown grant, pre-emption or otherwise within the limits of the grant mentioned in the said section three.

And whereas by section six of the said Act it was provided that the grant mentioned in section three of the said Act should not include any lands then held under Crown grant, lease, agreement for sale or other alienation by the Crown, nor should it include Indian Reserves or Settlements, or Naval or Military Reserves.

And whereas by section twenty-three of the said Act it was provided that the company which might acquire the said lands from the Dominion Government for the construction of the railway should be governed by sub-section (f) of the agreement in the said Act recited, and that each *bonâ fide* squatter who had continuously occupied and improved any of the lands within the tract of land to be acquired by the company from the Dominion Government for a period of one year prior to the 1st day of January, 1883, should be entitled to a grant of the freehold of the surface rights of the said squatted lands to the extent of one hundred and sixty acres to each squatter at the rate of one dollar an acre.

And whereas by sub-section (f) of the agreement in the said Act recited it is provided that the said lands should except as to coal and other minerals, and also except as to timber lands as thereafter mentioned be open for four years from the passing of the said Act to actual settlers for agricultural purposes at the rate of one dollar an acre to the extent of one hundred and sixty acres to each such actual settler, and that in any grants to settlers the right to cut timber for railway purposes and rights of way for the railway and stations and workshops should be reserved.

And whereas by section twenty-four of the said Act it was enacted that the company should at all times sell coals gotten from the lands that might be acquired by them from the Dominion Government to any Canadian Railway Company having the terminus of its railway on the seaboard of British Columbia, and to the Imperial, Dominion and Provincial authorities, at the same rates as might be charged to any railway company owning or operating any railway in the United States, or to any foreign customer whatsoever.

And whereas by section twenty-five of the said Act it was provided that all lands acquired by the company from the Dominion Government under the said Act containing belts of timber fit for milling purposes should be sold at a price to be thereafter fixed by the Government of the Dominion or by the company.

And whereas by section twenty-six of the said Act it was provided that the existing rights, if any, of any persons or corporations in any of the lands so to be acquired by the company should not be affected by the said Act nor should it effect Military or Naval reserves.

And whereas by an Act of the Parliament of Canada passed in the forty-seventh year of Our reign, chaptered six, and intituled "An Act respecting the Vancouver Island Railway, the Esquimalt Graving Dock and certain railway lands of the Province of British Columbia, granted to the Dominion" after reciting as is therein recited it is amongst other things in effect enacted that the Governor in Council may grant to the Esquimalt and Nanaimo Railway company in aid of the construction of a railway from Esquimalt to Nanaimo, British Columbia, and of a telegraph line of the said railway besides the subsidy in money mentioned in the said Act, all of the land situated on Vancouver Island which has been granted to us by the legislature of British Columbia by the Act hereinbefore in part recited, in aid of the construction of the said line of railway in so far as such lands shall be vested in us, and held by us for the purposes of the said railway or to aid in the construction of the same; and also all coal, coal oil, ores, stones, clay, marble, slate, mines, minerals, and substances whatsoever in, on or under the lands so to be granted to the said company as aforesaid, and the foreshore rights in respect of all such lands as aforesaid, which are to be granted to the said company as aforesaid, and which border on the sea, together with the privilege of mining under the foreshore and sea opposite any such land, and of mining and keeping for their own use all coal and minerals herein mentioned under the foreshore or sea opposite any such lands, in so far as such coal, coal oil, ores, stones, clay, marble, slates, mines, minerals and substances whatsoever and foreshore rights are vested in us, as represented by the Government of Canada, and further that no lands shall be conveyed to the said company until the road

is fully completed and equipped, and further that the land grant shall be made and the land in so far as the same shall be vested in us and held by us for the purposes of the said railway or to aid in the construction of the same shall be conveyed to the said company upon the completion of the whole work to the entire satisfaction of the Governor in Council but so, nevertheless that the said lands, and the coal oil, coal and other minerals and timber thereunder, therein or thereon shall be subject in every respect to certain provisions set out in the seventh section of the said Act.

And whereas it has been agreed by and between the Government of Canada, the Government of British Columbia and the said company, that the grant of the said lands to the said company shall be by the description hereinafter contained, that the exact boundaries of the lands covered by such grant shall be as settled and agreed upon by and between the Government of British Columbia and the said company, and further that it shall not be necessary for settlers under sub-section (f) of the agreement recited in the said Act of the legislature of British Columbia to pay the price of lands pre-empted by them in full before the expiry of four years from the passing of the said Act, and that the terms of payment by such settlers for their land shall be those provided by the laws affecting Crown lands in British Columbia, and that the company shall grant them their conveyance upon demand when such price shall have been paid in full.

And whereas the whole work undertaken by the said company has been completed to the entire satisfaction of Our Governor in Council and Our Governor in Council has recommended that the land grant provided for by the said Act should now be made subject, however to the stipulations and conditions hereinafter mentioned and We deem it expedient that such grant shall be so made.

Now know ye, that We do by these presents, in consideration of the premises and under and by virtue of the said Acts of the Parliament of Canada, and of the Legislature of British Columbia hereinbefore in part recited, and by virtue of every other power Us in that behalf enabling, and by and with the advice of Our Privy Council for Canada, grant, assign and convey unto the Esquimalt and Nanaimo Railway Company, its successors and assigns, all and singular the land situated on Vancouver Island which has been granted to Us by the Act of the Legislature of the Province of British Columbia passed in the forty-seventh year of Our reign, chaptered fourteen, and intituled "An Act relating to the Island Railway, the Graving Dock, and Railway Lands of the Province," in aid of the construction of the said line of railway in so far as such lands are vested in Us and held by Us for the purposes of the said railway or to aid in the construction of the same, and also all coal, coal oil, ores, stones, clay, marble, slate, mines, minerals and substances whatsoever in, on or under such lands, and the foreshore rights in respect of such of the said lands as border on the sea, together with the privilege of mining under the foreshore and sea opposite any such land, and of mining and keeping for its and their own use all coal and minerals herein mentioned, under the foreshore or sea opposite any such lands, in so far as such coal, coal oil, ores, stones, clay, marble, slate, mines, minerals and substances and foreshore rights are vested in us as represented by the Government of Canada. And also the full benefit and advantage of the rights and privileges granted to us by section five of the said Act of the Legislature of British Columbia.

To have and to hold the said lands, coal, coal oil, ores, stones, clay, marble, slate, mines, minerals and substances and the said foreshore rights and privileges of mining, and the said rights and privileges in the said section five of the said Act of the Legislature of British Columbia referred to unto and to the use of the said company, its successors and assigns forever. Subject nevertheless to the several stipulations and conditions affecting the same hereinbefore recited and which are contained in the Acts of the Parliament of Canada, and of the legislature of British Columbia hereinbefore in part recited as such stipulations are modified by terms hereinbefore recited of the agreement so made as aforesaid, by and between the Government of Canada, the Government of British Columbia and the said company.

Given under the Great Seal of Canada, witness, John Joseph McGee, Esquire, deputy of Our right, trusty and entirely beloved cousin, the Most Honourable Henry Charles Keith Petty Fitzmaurice, Marquess of Lansdowne, in the County of Somerset, Earl of Wycombe, of Chipping Wycombe, in the County of Bucks, Viscount Calne and

Calnstone, in the County of Wilts, and Lord Wycombe, Baron of Chipping Wycombe, in the County of Bucks, in the Peerage of Great Britain, Earl of Kerry and Earl of Shelburne, Viscount Clanmaurice and Fitzmaurice, Baron of Kerry, Lexnaw and Dunkerron, in the Peerage of Ireland, Knight Grand Cross of Our most distinguished Order of St. Michael and St. George, Governor General of Canada and Vice-Admiral of the same, &c., &c., at Ottawa, this twenty-first day of April, in the year of Our Lord one thousand eight hundred and eighty-seven, and in the fiftieth year of Our reign.

By Command.

G. POWELL,
Under Secretary of State.

A. M. BURGESS,
Deputy of the Minister of the Interior.

Recorded in the Department of the Interior, in Liber 23, Folio 449.

W. M. GOODEVE,
Registrar of Dominion Lands Patents.

THE BRITISH COLUMBIA GAZETTE.

VICTORIA, July, 5th 1873.

Vol. xiii

No. 27.

Notice.

WHEREAS by an Order in Council dated the 7th day of June, 1873, of the Honourable the Privy Council of Canada, it has been decided "that Esquimalt, in Vancouver Island, be fixed as the terminus of the Canadian Pacific Railway, and that a line of railway be located between the harbour of Esquimalt and Seymour Narrows, on the said island."

AND WHEREAS in accordance with the terms of the said Order in Council, application has been made to His Excellency "the Lieutenant-Governor of British Columbia for a reservation and for the conveyance to the Dominion Government, in trust, according to the 11th paragraph of the terms of the agreement of Union, of a strip of land twenty miles in width along the eastern coast of Vancouver Island between Seymour Narrows and the Harbour of Esquimalt, in furtherance of the construction of the said railway."

AND WHEREAS it has been deemed advisable that the land within the limits aforesaid should be reserved, prior to any conveyance aforesaid being made thereof.

PUBLIC NOTICE is therefore hereby given that from and after this date a strip of land twenty miles in width along the eastern coast of Vancouver Island between Seymour Narrows and the Harbour of Esquimalt is hereby reserved.

By Command,

JOHN ASH,
Provincial Secretary.

Provincial Secretary's Office,
July 1st, 1873.

THE BRITISH COLUMBIA GAZETTE,

VICTORIA, April 22nd, 1882.

Vol. xxii

No. 16.

Notice.

His Honour the Lieutenant-Governor in Council has been pleased to direct that all public lands, lying within the boundaries of the tract of land set out in the "Vancouver land and Railway Company Act, 1882," be reserved, as from the date hereof, for the purpose of enabling the Government to carry out the provisions of the said Act.

The following are the boundaries referred to, viz:—

A tract bounded.—

On the south by a straight line drawn from the head of Saanich Inlet to Muir Creek, on the Straits of Fuca;

On the west, by a straight line drawn from Muir Creek, aforesaid, to Crown Mountain;

On the north by a straight line drawn from Crown Mountain to Seymour Narrows; and
On the east by the coast line of Vancouver Island to the point of commencement.

By Command,

GEO. A. WALKEM,
Chief Commissioner of Lands and Works.

Lands and Works Department,
Victoria B. C., 21st April, 1882.

THE BRITISH COLUMBIA GAZETTE,

VICTORIA, B. C., June, 14th, 1883.

Vol. xxiii

No. 24.

His Honour the Lieutenant-Governor in Council has been pleased to direct that the notice, dated 1st July, 1873, reserving a strip of land twenty miles in width along the eastern coast of Vancouver Island, between Seymour Narrows and the Harbour of Esquimalt, for railway purposes, be and is hereby rescinded; and that all public lands lying within the following described boundaries be reserved from the date thereof, in furtherance of the construction of the Island Railway, viz:—

A tract bounded—

On the south by a straight line drawn from the head of Saanich Inlet to Muir Creek on the Strait of Fuca;

On the west by a straight line drawn from Muir Creek aforesaid, to Crown Mountain;

On the north by a straight line drawn from Crown Mountain towards Seymour Narrows, to the 50th parallel of latitude, thence due east, along said parallel of latitude to a point on the coast opposite Cape Mudge; and

On the east by the coast line of Vancouver Island to the point of commencement.

By Command,

WM. SMITHE,
Chief Commissioner of Lands and Works.

Lands and Works Department,
Victoria, B. C., June 12th, 1883.

THE BRITISH COLUMBIA GAZETTE,

VICTORIA, May 8th, 1884.

Vol. xxiv

No. 19.

PUBLIC NOTICE.

ISLAND RAILWAY LANDS.

Notice is hereby given that, on and after the 1st June next, all those lands which are reserved for railway purposes, on Vancouver Island, will be open to pre-emption by actual settlers, at the rate of one dollar per acre, as provided by the terms of the Settlement Act, 47 Vic. Ch. 14.

Squatters who have occupied and improved any of the lands within this tract should make immediate application for a record of the same, upon printed forms for the purpose, which can be obtained from the Government Agent for the district.

WM. SMITHE,

Chief Commissioner of Lands and Works.

Lands and Works Department,
Victoria B. C., 7th May, 1884.

THE BRITISH COLUMBIA GAZETTE,

VICTORIA, May 15th, 1884.

Vol. xxiv

No. 20.

PUBLIC NOTICE.

ISLAND RAILWAY LANDS.

Notice is hereby given that, on and after the 1st June next, all those lands which are reserved for railway purposes on Vancouver Island, will be open to pre-emption by actual settlers, at the rate of one dollar per acre, as provided by the terms of the Settlement Act, 47 Vic. Ch. 14.

Squatters, who have occupied and improved any of the lands within this tract, should make immediate application for a record of the same, upon printed forms for the purpose, which can be obtained from the Government Agent for the district.

WM. SMITHE,

Chief Commissioner of Lands and Works.

Lands and Works Department,
VICTORIA, B. C., 7th May, 1884.

NANAIMO FREE PRESS.

17th May, 1884.

PUBLIC NOTICE.

ISLAND RAILWAY LANDS.

Notice is hereby given that, on and after the 1st June next, all those lands which are reserved for railway purposes, on Vancouver Island, will be open to pre-emption by actual settlers, at the rate of one dollar per acre, as provided by the terms of the Settlement Act, 47 Vic., Ch. 14.

Squatters who have occupied and improved any of the lands within this tract, should make immediate application for a record of the same, upon printed forms for the purpose, which can be obtained from the Government Agent for the district.

WM. SMITHE,

Chief Commissioner of Lands and Works.

Lands and Works Department,
Victoria, B. C., May 7th '84.

Editorial notice with reference to foregoing Notice.

NANAIMO FREE PRESS.

SATURDAY, May 17th, '84.

ISLAND RAILWAY LANDS.

Mr. M. Bray, Government Agent, etc., is now prepared to receive the application of those squatters to pre-empt the lands on which they have been in possession. According to the Railway Act, persons who have continuously resided on railway reserve lands for a year previous to January 1st, 1881, are entitled to pre-empt the said lands to the extent of 160 acres. The price is \$1 per acre, but it is not positively known whether the \$1 per acre will have to be paid down or in four yearly instalments. Quite a number of applications have already been entered. We would advise all squatters to have their applications in before the 1st June so as to prevent the annoyance of another person innocently pre-empting the land on which the squatter has expended so much toil and expense. There is not the slightest doubt but that the squatter would eventually get his land, but by making the application before the lands are thrown open will prevent disputes, and the consequent delay and annoyance. This would appear to be the intention of the Provincial Government in receiving squatters' applications before the 1st June and general applications afterwards. Parties wishing to record the land, if surveyed, should be fully prepared to give the official description, or if unsurveyed, prepare a sketch showing the metes and bounds of the land they wish to pre-empt.

DEPARTMENT OF LANDS AND WORKS,

VICTORIA, B. C., May 31st, 1886.

SIR,

I have the honour to request that the Dominion Government will issue and forward to me, for transmission, Crown Grants or Patents, in favour of those pre-emptors of lands situated within the railway belt on Vancouver Island whose claims are described in the schedule enclosed herewith, and more particularly indicated on sketches annexed.

Each of these persons has deposited in this office his original Pre-emption Record, Certificate of Improvement, and Certificate of Purchase Receipt in full payment for the land, the right to which was acquired under the provisions of "An Act relating to the Island Railway, the Graving Dock and Railway Lands of the Province."

I have the honour to be, Sir,
Your obedient servant,

WM. SMITHE,

Chief Commissioner of Lands and Works.

The Honourable Joseph W. Trutch,
Agent of Canada for British Columbia,
Victoria, B. C.

Schedule within referred to.

JAMES PATERSON.

	Acres.
Cranberry District,—Section 1, Range 8.....	100

GEORGE ALFRED LILLEY.

Cowichan District,—Section 18, Range 3	100
--	-----

JAMES PATERSON.

Bright District,—East 30 chains. of Section, 20, Range 8....	60
--	----

JOHN ANDREW WILSON.

Chemannis District,—Section 4, Range 10, East 30 chains of	
Section 5, Range 10	54

HENRY ROSS.

Mountain District,—Section 18, Range 6	100
--	-----

ROBERT CRAWFORD.

Alberni District,—Lot No. 22.....	120
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JOHN LOVE.

Alberni District,—Lot No. 23.....	160
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Victoria, B. C., May 31st, 1886.

(Liber. 27, Folio 1.)

JOHN J. MCGEE,

CANADA.

Deputy Governor.

VICTORIA, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, &c., &c., &c.

To all to whom these presents shall come :

GREETING ;

WHEREAS the lands hereinafter described are part of the lands transferred by the Government of the Province of British Columbia to the Government of Our Dominion of Canada, and mentioned in the Act of the Parliament of Canada, passed in the forty-seventh year of Our reign, chaptered six, and intituled "An Act respecting the Vancouver Island Railway, the Esquimalt Graving Dock, and certain Railway Lands of the of the Province of British Columbia, granted to the Dominion."

AND WHEREAS,..... of the district, in the Island of Vancouver, in the Province of British Columbia, in our Dominion of Canada,..... has applied for a grant of the said lands and his claim to such grant having been duly investigated by Us he has been found duly entitled thereto.

NOW KNOW YE, that by these presents We do grant, convey and assure, unto the said....., his heirs and assigns forever, all those parcels or tracts of land situate, lying and being in the..... district, in the Island of Vancouver, in the..... Range, in the Province of British Columbia, in Our Dominion of Canada, and being composed of..... containing by admeasurement together..... acres, more or less.

To HAVE AND HOLD the said parcels or tracts of land unto the said.
 his heirs and assigns forever ; saving and reserving nevertheless, unto Us, Our successors
 and assigns, the free uses passage and enjoyment of, in, over and upon all navigable
 waters that now are or may be hereafter found on, or under, or flowing through or upon
 any part of the said parcels or tracts of land ; and saving and reserving also the right of
 The Esquimalt and Nanaimo Railway Company to cut timber for railway purposes on
 said lands, and the rights of way for their railway through said lands, and the right to
 take such parts of the said lands for the stations and workshops of the said company as
 may be required by them for these purposes without paying compensation therefor ; and
 saving and reserving, nevertheless unto Us, and Our successors and assigns, all coal, coal
 oil, ores, mines and minerals whatsoever in, on or under the said lands.

GIVEN, under the Great Seal of Canada, Witness, John Joseph McGee, Esquire,
 Deputy of Our Right Trusty and Entirely Beloved Cousin, the Most Honourable Henry
 Charles Keith Petty Fitzmaurice Marquess of Landsdowne, in the County of Somerset,
 Earl of Wycombe, of Chipping Wycombe, in the County of Bucks, Viscount Calne
 and Calnstone in the County of Wilts and Lord Wycombe, Baron of Chipping,
 Wycombe, in the County of Bucks, in the Peerage of Great Britain, Earl of Kerry and
 Earl of Shelburne, Viscount Clanmaurice and Fitzmaurice, Baron of Kerry, Lixnaw
 and Dunkerron, in the Peerage of Ireland ; Knight Grand Cross of Our Most Dis-
 tinguished Order of Saint Michael and Saint George ; Governor General of Canada,
 and Vice Admiral of the same, &c., &c., &c.

At Ottawa, this day of in the year of Our Lord one thousand
 eight hundred and eighty in the year of Our Reign.

By Command,

.....
Under Secretary of State.

.....
Deputy of the Minister of the Interior.

Recorded in the Department of the Interior the day of, Liber . . .
 Folio . . .

.....
Registrar of Dominion Lands Patents.

LIST OF PATENTS IN VANCOUVER ISLAND RAILWAY BELT.

Section.	Tp.	Rge.	Mer.	Area.	Name.	Date of Patent.
Whole	19	5		100	David Holmes,	20 March 1886.
W. $\frac{1}{2}$	20	5		59		
W. 5 chs.	19	6		10		
Whole	1	7		100	George Batty.	20 March, 1886.
E. 30 chs.	2	7		60		
Whole	4	3		100		
S. 12 chs;	5	3		60	George Bartlett.	20 March, 1886.
N. $\frac{1}{2}$	17	3		50	Edmund Comar.	20 March, 1886.
Whole	1	5		100	John Nelson.	20 March, 1886.
E. $\frac{1}{2}$	12	5		50		
W. $\frac{1}{2}$	14	6		50	John Mahoney.	20 March, 1886.
W. $\frac{1}{2}$	15	6		50		
Whole	5	4		100	George Bartlett.	20 March, 1886.
E. portion frl.	4	1		19	H. O. Welburn.	22 March, 1886.
E. 12 $\frac{1}{2}$ chs.	11	5		25	J. W. Graff.	22 March, 1886.
E. 12 $\frac{1}{2}$ chs.	12			25		
N. 8 chs.	11	6		69		
W. 30 chs.	12			60	Peter McLennen.	20 March, 1886.
W. 40 chs.	14	5		80		
W. 40 chs.	15	5		80		
Whole	18	5		100	James Dougan.	20 March, 1886.
E. $\frac{1}{2}$	17	5		50		
Whole	11	6		100	Chas. H. Valpoy.	20 March, 1886.
E. 30 chs.	11	5		60		
Whole	19	4		100	Hy. Severne.	20 March, 1886.
Fr. whole	19	5		43		

Section.	Tp.	Rge.	Mer.	Area.	Name.	Date of Patent.
Frl. whole	20	5		6.30		
Whole	7			176	John Mollet.	25 May, 1886.
Whole	8			160	J. C. Mollet.	Alberni V. Island. 20 Mar. '86.
Whole	9			158	J. J. Jonckan.	Alberni V. Island. 20 Mar. '86.
Whole	4			160	S. B. Hamilton.	New Castle, V. I. 20 Mar. '86.
Whole	3			160	Arch. Hamilton.	
Whole	6			160	A. Garvin.	Nelson, V. Island. 20 Mar. '86.
Whole	11	8		100		
E. 30 cha.	10	8		60	John Ead.	Cranberry, V. Island. 20 Mar. '86.
Whole	2	8		100		
E. 30 cha.	3	8		60	Thomas Cassidy.	20 Mar. '86.
Whole	10	6		100		
Pt. of W. $\frac{1}{2}$	9	6		27	Jas. Beck.	Cranberry, V. Island. 22 Mar. '86.
W. $\frac{1}{2}$	11	6		50		
Whole	14	6		100		
Whole	15	6		34	Jno. Grandam.	Cranberry V. I. 20 Mar. '86.
E. 37 cha.	15	5		26		
E. 30 cha.	4	8		60	C. Stewart.	Cranberry V. Island. 20 Mar. '86.
Whole	4	1		100	C. Stewart.	Cedar V. Island. 20 Mar. '86.
Whole	3	1		100	Samuel Jones.	Cedar, V. Island. 20 Mar. '86.
W. 30 cha.	3	2		60		
Frl. Whole	12	3		83		
W. portion	13	3		37	A. Fuller.	Cedar, V. Island. 20 Mar. '86.
E. 20 cha.	13	2		40		
Whole	70			160	Geo. G. McDonald.	Comox, V. I. 20 Mar. '86.
Whole	69			55	H. Guilloid.	
Whole	4	2		100	C. B. Cowan.	Cowichan, V. I. 25 May, '86.
Whole	10	4		100	Robt. M. Lay.	Quamichan, V. I. 25 May, '86.
Wly 30 cha.	9	4		60		
Part of lot 3 in Block 14 City of New Westminster. 60					Corporation of the City of New Westminster.	14 May, '86.
All	8	4		160		
E. Part	7	4		45	A. Kennedy.	Cedar, V. Island. 25 May, '86.
Ed.	3	1		50	D. McPherson.	Cowichan, V. I. 1 June, '86.
Whole	4	8		100	Donald McPherson.	Quamichan V. I. 1 June, '86.
Whole	5	8		100	John McPherson.	Quamichan, V. I. 1 June, '86.
Whole	8	3		100		
E. pt.	7	3		60	A. A. Brownell.	Quamichan, V. I. 1 June, '86.
Whole	68			139	A. M. Stenhouse.	Connex, V. I. 1 June, '86.
Whole	77			160	Dani. Stewart	
Whole	1	8		100	James Patterson.	Cranberry, V. I. 1 June, '86.
Whole	18	3		100	G. A. Lilly.	Cornicken, V. I. 9 July, '86.
Ely 30 cha.	20	8		60	Jas. Patterson.	Bright, V. I. 9 July, '86.
Whole	4	10		100		
Ely 30 cha.	5	10		54	J. A. Wilson.	Chemannis, V. I. 9 July, '86.
Whole	18	6		100	Hy. Ross.	Mountain, V. I. 9 July, '86.
Lot	22			120	R. Crawford.	Alberni, V. I. 9 July, '86.
Lot	23			160	Jno. Lowe.	
Sec.	1	8		53	Hy. Fry.	Somenos, V. Island. 28 July, '86.
Sec.	20			160	Peter Merrifield.	Alberni, V. I. 28 July, '86.
Sec.	71			160	Jos. McPhee.	Comox, V. I. 28 July, '86.
Sec.	5			320	Arthur E. McCallum and Chas. Morrow.	Renfrew, V. I. 9 Sept., '86.
Lot	5			160	Jno. E. Jenkins.	New Castle V. I. 9 Sept., '86.
Sec. W $\frac{1}{2}$	5	2		50		
W. $\frac{1}{2}$	6	2		50		
Ely 30 cha.	6	1		60	Leo Rogers.	Cowichan, V. I. 9 Sept., '86.
All	16	6		100		
E. $\frac{1}{2}$	17	6		50	Jno. Mahoney.	Cowichan, V. I. 9 Sept., '86.
All	13	8		51		
Ely 60 cha.	12	8		60	Jas. Malpass.	Cranberry, V. I. 9 Sept., '86.
All	5			160	Parker White.	Oyster, V. I. 9 Sept., '86.
All	74			160	A. McKelroy.	Comox, V. I. 9 Sept., '86.
All	73			160	Stafford McKelroy.	Comox, V. I. 9 Sept., '86.
All	13	4		100		
E. 30 cha.	14	4		60	Jno. H. Stratford.	Somenos, V. I. 2 Oct., '86.
All	18	1		100		
E. 30 cha.	19	1		60	Richard D. Symond.	Comiakien, V. I. 2 Oct., '86.
All	7	2		100		
N. 16 cha.	6	2		80	Jas. Kemp and Jas. A Kemp.	
All	6	3		100	Quamichan.	Vancouver Island. 4 Oct., '86.
W. 20 cha.	6	4		40		
All	7	9		160	Geo. F. Wake.	Sahltnan, V. I. 20 Oct., '86.
Lot	45			160	Jno. Fraser.	Alberni, V. I. 2 Oct., '86.
Lot	14			160	E. Mulhearn.	
Frl. All	6	10		14	Sam'l Gibbs.	Chemannis, V. I. 9 Feby., '87.
All	80			160	Alex. Grant.	Comox, V. I. 9 Feby., '87.

Section.	Tp.	Rget.	Mer.	Area.	Name.	Date of patent.
5 May, 1886.	All	3	7	84	Gustav Larsen, Cowichan, V. I.	9 Feby., '87.
20 Mar. '86.	All	4	7	42		
20 Mar. '86.	All	3	9	100	Abraham F. Mufford Chemana V. I.	9 Feby., '87.
20 Mar. '86.	Ely 30 chs.	3	10	60		
20 Mar. '86.	Wly 15 chs. & 50 lks	12	8	38	Jonathan Blundell, Cranberry, V. I.	9 Feby., '87.
	E. portion	5	4	54		
20 Mar. '86.	Wly fr. 30 chs.	5	5	50	Jno. McDonald, Cedar, V. I.	9 Feby., '87.
20 Mar. '86.	W. frl. 35 chs.	4	5	50		

THIS INDENTURE, made this day of A. D. one thousand eight hundred and eighty between the Esquimalt and Nanaimo Railway Company of the one part, and of the other part.

WITNESSETH that in consideration of the sum of dollars, paid by the said to the Company, the receipt of which said sum of dollars, the said Company do hereby acknowledge and of and from the same and every part thereof, do hereby acquit and release the said his heirs, executors and administrators they the said Company do hereby grant and convey unto the said his heirs, and assigns all that piece or parcel of land situate in the District of Vancouver Island, in the Province of British Columbia, and upon the official map of the said District, known and numbered as and which said piece or parcel of land is said to contain acres, more or less, and is more particularly shown upon the plan or tracing hereunto annexed and thereon colored red.

To have and to hold the said land unto and to the use of the said his heirs and assigns for ever, subject nevertheless to the reservations hereinafter mentioned, that is to say:

Saving and reserving to the said Company, their successors and assigns, and their agents, servants, contractors and workmen, the right to enter into and upon the said land, and cut and carry away any timber therefrom for railway purposes, without paying compensation therefor.

And saving and reserving also to the said Company, their successors and assigns, rights of way for their railway through the said lands, and the right for themselves, their agents, servants, contractors and workmen to enter upon and take such parts of the said land as may be required for the stations and workshops of the said company without paying compensation therefor.

And saving and reserving to the said company their successors and assigns, all coal, coal oil, ores, mines and minerals, whatsoever in, on or under the land hereby granted or expressed so to be, with full liberty of ingress, egress and regress at all times for the said company, their successors and assigns, and their servants, agents and workmen in, to and upon the said land, and either with or without railways, horses or other cattle, carts and waggons and other carriages, for the purpose of searching for, working getting and carrying away the said coal, coal oil, ores, mines and minerals, and with full liberty, also for the said company, their successors and assigns, and their servants, agents and workmen, to sink, drive, make and use pits, shafts, drifts, adits, courses and water courses, and to erect and set up fire and other engines, machinery and works, and to open roads in, upon, under and over the said land or any part or parts thereof, for the purpose of more conveniently working and carrying away the said mines and minerals, and also to appropriate and use any part of the surface of the said land for depositing, placing and heaping thereon the minerals, waste, rubbish and other substances which may be gotten from the said mines and minerals, the company, their successors or assigns, paying reasonable compensation for such of the surface of the said land as may be taken, damaged or destroyed by such searching, working, getting and carrying away.

In witness whereof the common seal of the said company has been hereunto affixed by order of the Board of Directors.

Sealed by order of the Board of Directors at }
a meeting held the day of 188 . }
Secretary.

President.

4 Oct., '86.
20 Oct., '86.
2 Oct., '86.
9 Feby., '87.
9 Feby., '87.

V. R.

Province of British Columbia.—No.

VICTORIA, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith. and so forth.

To all to whom these presents shall come, Greeting :

Know Ye, that We do by these presents, for Us, Our heirs and successors, in consideration of the sum of to Us paid, give and grant unto h heirs and assigns, all that parcel or lot of land situate and numbered on the official plan or survey of the in the Province of British Columbia, to have and to hold the said parcel or lot of land, and all and singular the premises hereby granted, with their appurtenances, unto the said h heirs and assigns for ever.

Provided, nevertheless, that it shall at all times be lawful for Us, our heirs and successors, or for any person or persons acting in that behalf by Our or their authority, to resume any part of the said lands which it may be deemed necessary to resume for making roads, canals, bridges, towing-paths, or other works of public utility or convenience; so, nevertheless, that the lands so to be resumed shall not exceed one-twentieth part of the whole of the lands aforesaid, and that no such resumption shall be made of any lands on which any buildings may have been erected, or which may be in use as gardens or otherwise for the more convenient occupation of any such buildings.

Provided, also, that it shall at all times be lawful for Us, our heirs and successors, or for any person or persons acting under our or their authority, to enter into and upon any part of the said lands, and to raise and get thereout any gold or silver ore which may be thereupon or thereunder situate, and to use and enjoy any and every part of the same land, and of the easements and privileges thereto belonging, for the purpose of such raising and getting, and every other purpose connected therewith, paying in respect of such raising, getting and use, reasonable compensation.

Provided, also, that it shall be lawful for any person duly authorized in that behalf by Us our heirs and successors, to take and occupy such water privileges, and to have and enjoy such rights of carrying water over, through or under any parts of the hereditaments hereby granted, as may be reasonably required for mining or agricultural purposes in the vicinity of the said hereditaments, paying therefor a reasonable compensation to the aforesaid h heirs or assigns.

I rovided, also, that it shall be at all times lawful for any person duly authorized in that behalf by Us, our heirs and successors, to take from or upon any part of the hereditaments hereby granted, the right to take from any such land, without compensation, any gravel, sand, stone, lime, timber or other material which may be required in the construction, maintenance, or repair of any roads, ferries, bridges, or other public works.

In testimony whereof, we have caused these Our letters to be made patent, and the Great Seal of our Province of British Columbia to be hereunto affixed. Witness, His Honour Lieutenant-Governor of our Province of British Columbia and its dependencies, at Our Government House, in Our city of Victoria, this day of in the year of Our Lord one thousand eight hundred and , and in the year of Our reign.

By Command.

TO THE

Sir,
Land Agent
Crown Lands
Ran

Dated 9th

Jam
number of
Richard
unsurveyed
the south
south east
post of m

LANDS IN RAILWAY BELT ALIENATED BY PROVINCIAL GOVERNMENT.

(Referred to in O. C. of 30th November, 1896.)

District.	Acres.
Shawnigan	2,795.70
Cowichan	2,932.00
Quamichan	3,128.80
Comiaken	3,330.55
Somenos	4,374.30
Chemainus	3,054.00
Oyster	372.00
Cedar	3,350.50
Cranberry	4,484.20
Douglas	2,800.00
Nanaimo	7,235.92
Mountain	6,546.20
Wellington	2,652.50
Nanoose	1,464.00
Cameron	160.00
Newcastle	325.00
Nelson	3,186.00
Comox	6,900.63
Renfrew	400.00
Alberni	2,492.00
Baynes Sound Lease (Nelson)	3,936.00
Sutton's Timber Land	7,035.00
Indian Reserves	13,391.00
Total	<u>86,346.30</u>

TO THE LAND COMMISSIONER OF NANAIMO DISTRICT, BRITISH COLUMBIA.

Sir,—I have the honour to request that you will record in my name under the Land Act, 1879, one hundred and sixty acres, of surveyed uncupied and unreserved Crown Land, within the meaning of the Land Act, 1879, in the District of Nanaimo. Range 2, Section 5, E. 60 acres, Range 2, Section 4.

I have the honour to be, Sir,
Your obedient servant,

SAMUEL BENNIE,

Dated 9th May, 1882.

..... A.D. 1878.
Cranberry District, Nanaimo.

James Paterson, homestead settler, date of pre-emption, January 29th, 1878, number of acres 160 acres one hundred and sixty acres, one hundred acres bounding Richard Haslam's land on the eastern side, surveyed and range S. S. L. also sixty acres unsurveyed adjoining said hundred acres to the south, the sixty acres is bounded on the south west by the Brook and runs fifty chains along said brook to a post, then south east to a post twenty chains, then runs fifty chains north east to a post the corner post of my hundred acres.

JAMES PATERSON.

VICTORIA, 26th September, 1864.

To the Surveyor-General.

SIR,—Please record in my name, Range 1, E. Section 19, north, North Saanich District 100 acres.

name of application (Sd.) RICHARD KEMP.

VICTORIA, September 26th, 1864,

J. D. PEMBERTON, Esq.,
Surveyor General.

SIR,—I beg to acquaint you that I hereby give to Richard Kemp all my right and title and interest to the pre-emption claim recorded in my name, viz :—lot 19, 1 E. North Saanich, and I give full authority to Richard Kemp to have the same recorded in his name—and this shall be a sufficient authority, that I wish the transfer to be so made.

HULEN MILLS His X mark.

Witness to Hulen Mills' signature,
(Sd.) Charles Street.

VANCOUVER ISLAND COLONY.

COMOX, DISTRICT, 9th November, 1864.

To the Surveyor-General, V. I.

The section land in rear of Duncan's, Comox District is open for pre-emption.

(Sgd.) JAS. ROBB,
Land Recorder.

To the Surveyor-General,

DEAR SIR,—As I have taken up the claim running in the same line of William Duncan's claim at back I have sent the two dollars to record the same by the bearer.

I remain,
Yours respectfully,

OLAFER DUNCAN.

er, 1864.

North Saanich

EMP.

th, 1864,

my right and
lot 19, I E.
ne recorded in
to be so made.

X mark.

ber, 1864.

-emption.

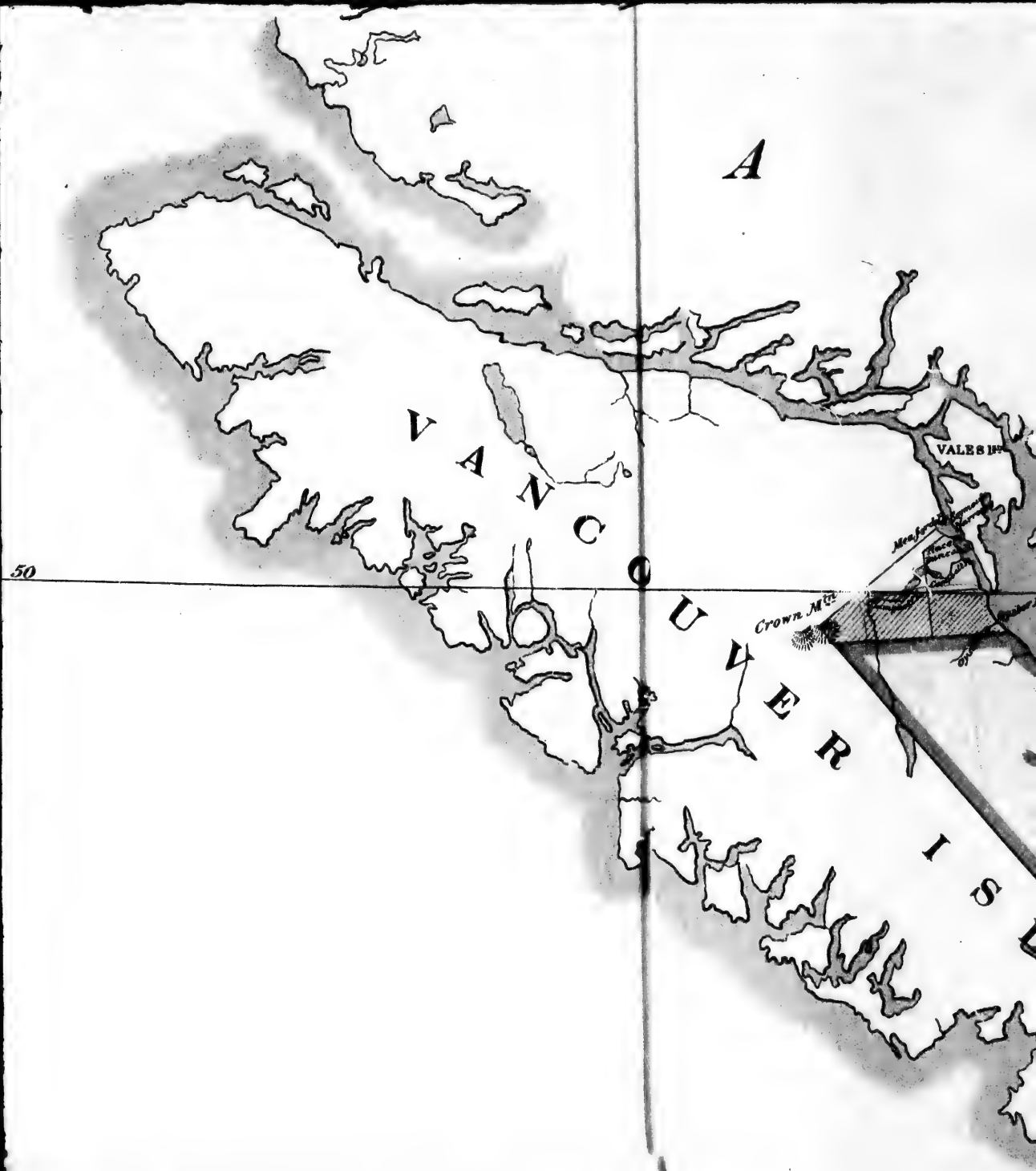
Recorder.

ne of William
by the bearer.

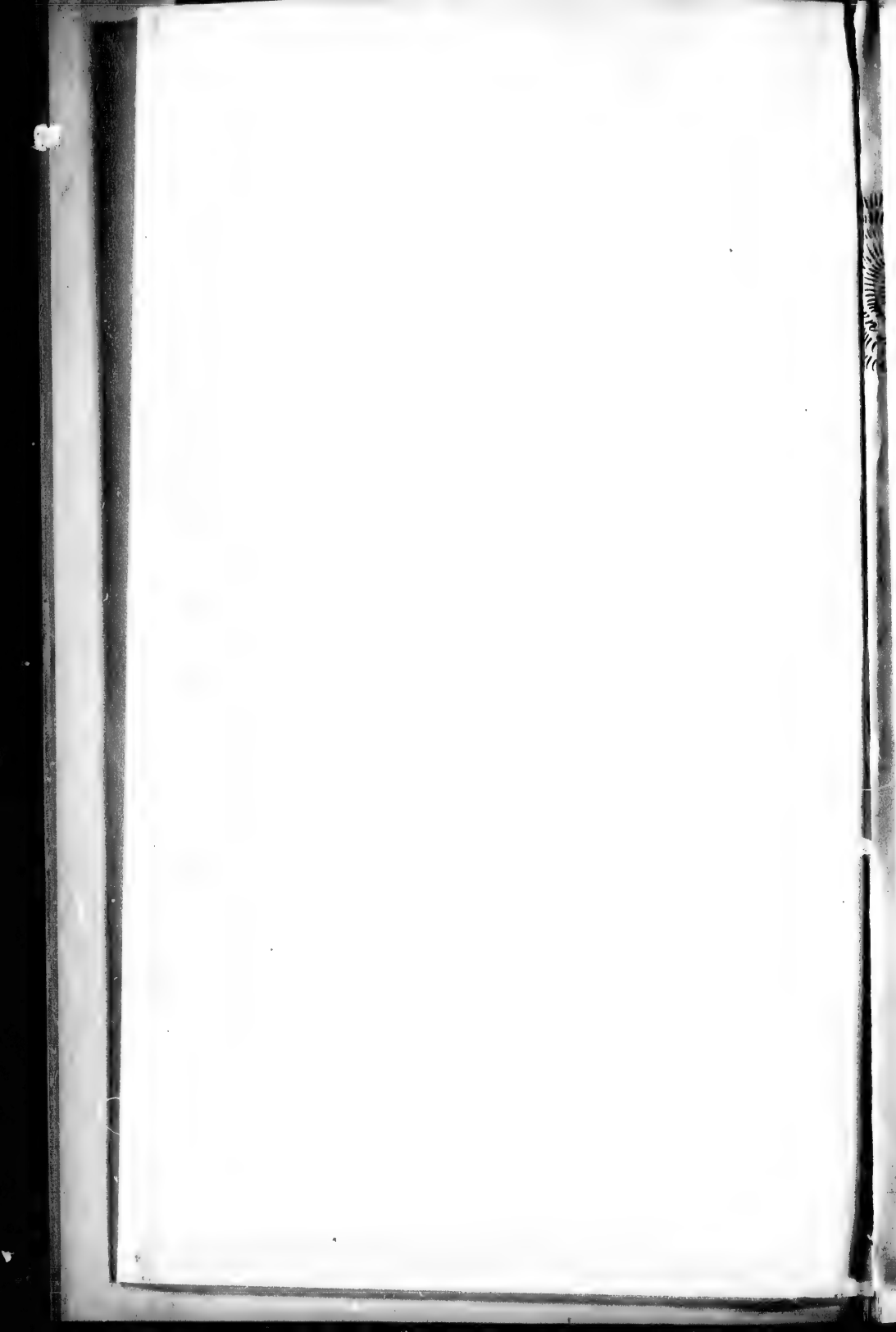
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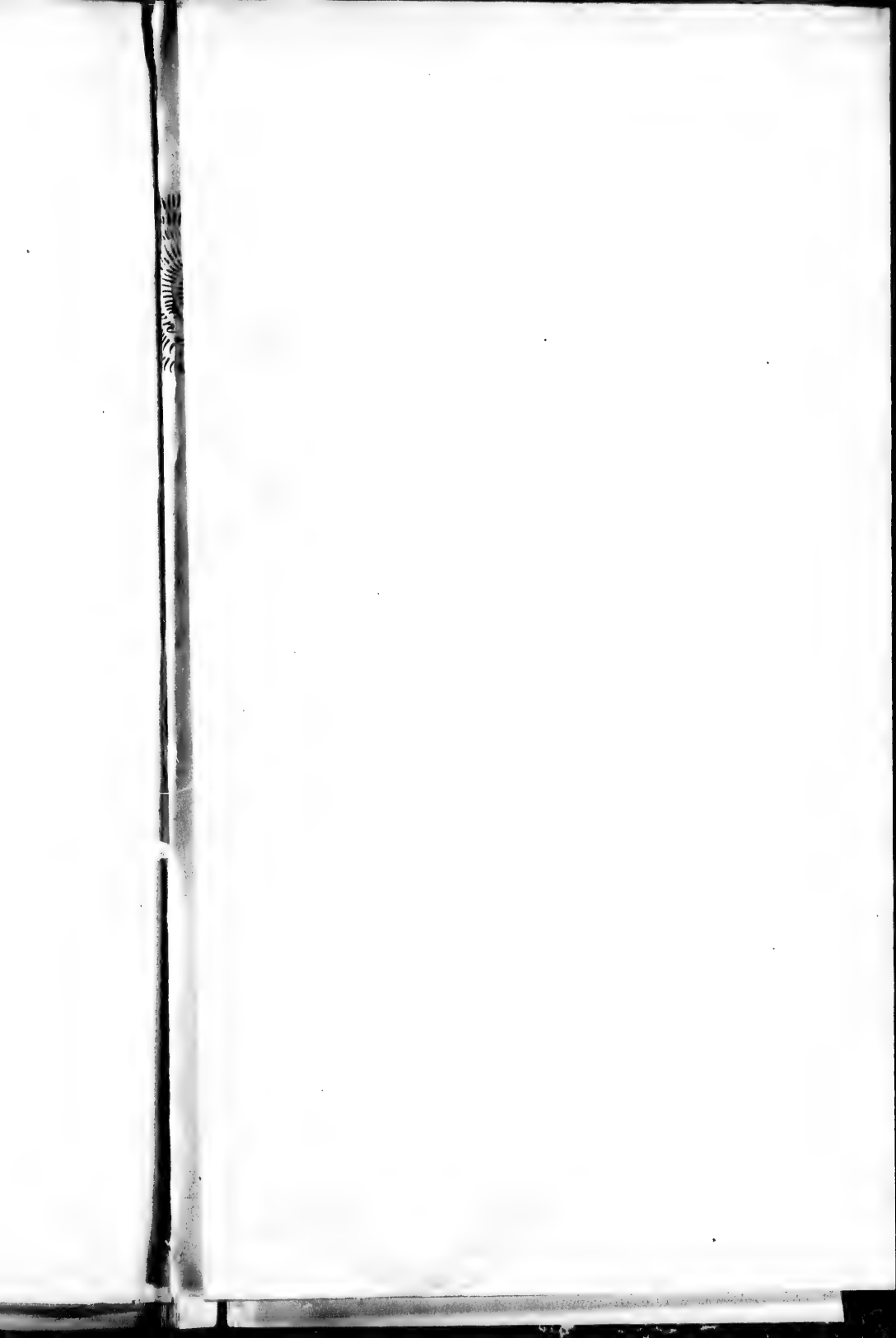
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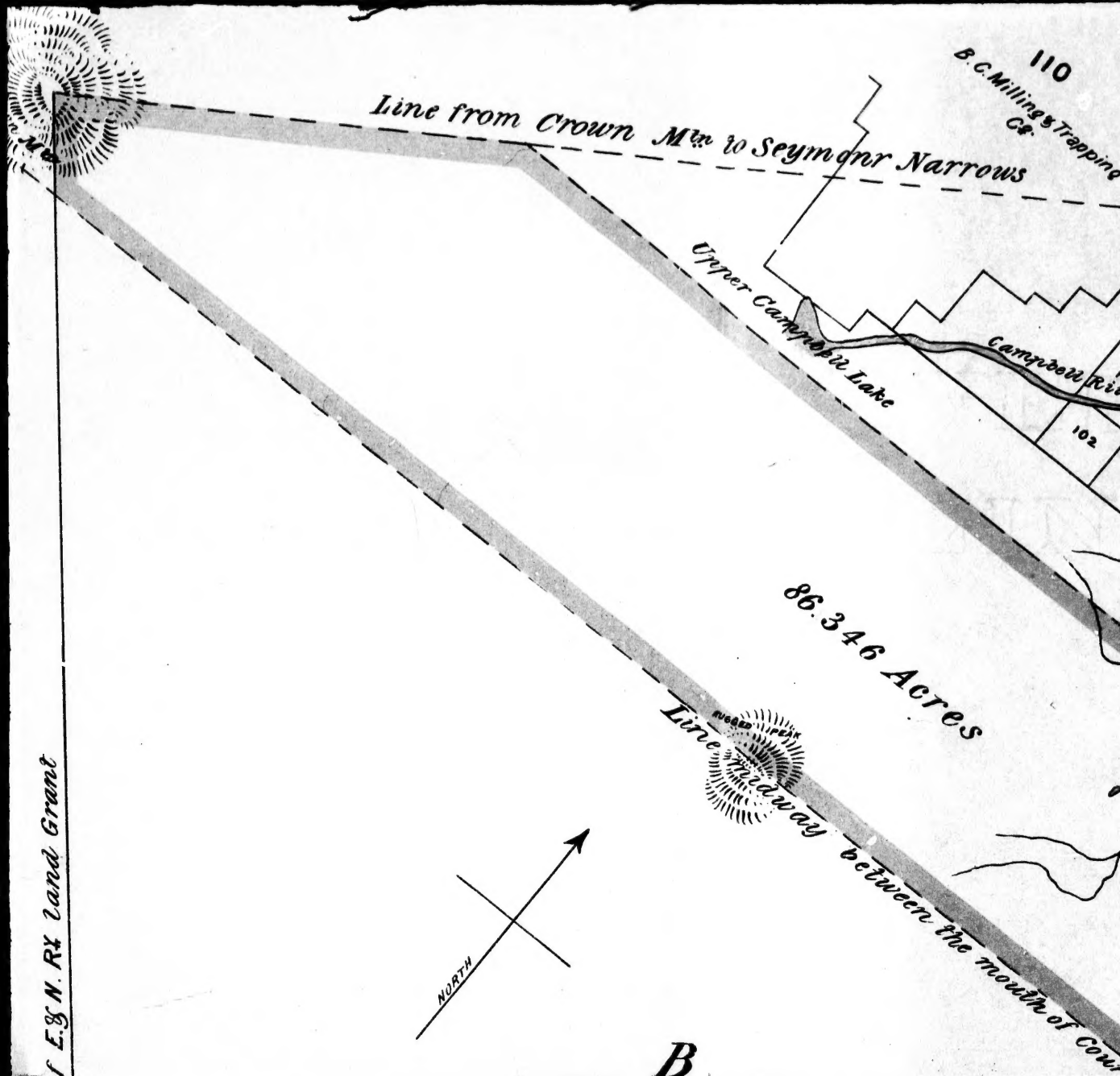








Western boundary of E.G.N. Ry Land Grant



B

—Map—

Shewing Land proposed to be granted
to the

Dominion Government

—in Lieu of—

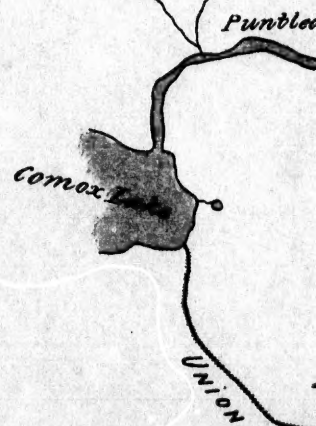


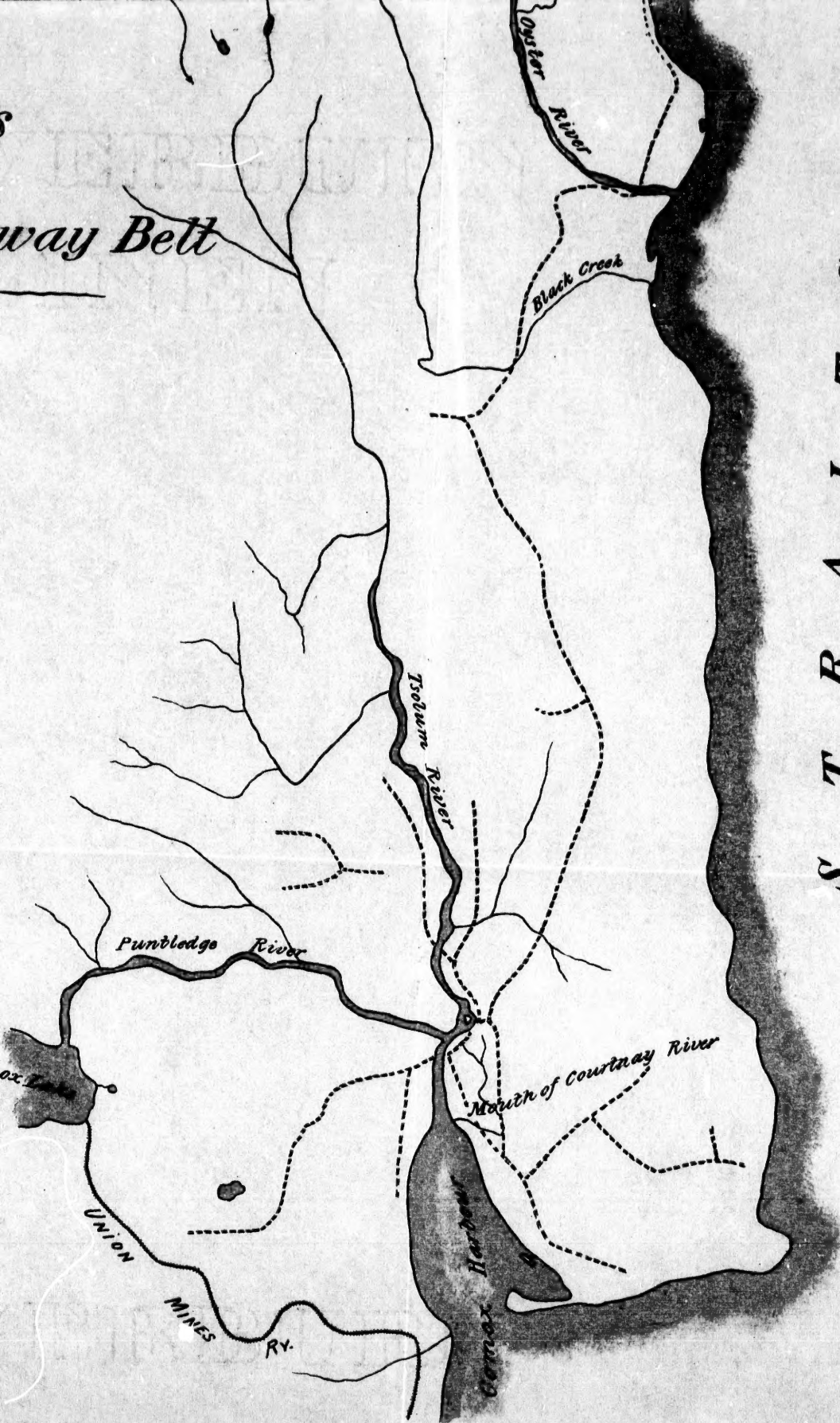
Line from the mouth of Muir Creek to Crown Mount

— in Lieu of —
Alienated Lands

→ in the ←
Esquimalt and Nanaimo Railway Bel

— Scale 160 chs. = 1 inch —





S T R A I T S
OF

away Belt